

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

APPLICANT: John Francis Dolan II

ASSESSMENT DISTRICT: 2nd

CASE NUMBER: 2025-0183-V

COUNCILMANIC DISTRICT: 6th

HEARING DATE: February 26, 2026

PREPARED BY: Donnie Dyott Jr. 
Planner

REQUEST

The applicant is requesting variances to perfect accessory structures (detached deck, gazebo, patio, walk, driveway and retaining wall) with less setbacks and buffer than required, with disturbance to slopes of 15% or greater and with greater lot coverage than allowed on property located at 1818 and 1816 Woods Road in Annapolis.

LOCATION AND DESCRIPTION OF SITE

The subject site consists of approximately 2.11 acres of land and is identified as Lot 2 of Parcel 1969 in Block 24 on Tax Map 51D in the Bywater Estates subdivision. The subject property is zoned RLD - Residential Low Density District and is a waterfront property on Church Creek located within the Chesapeake Bay Critical Area with a designation of RCA - Resource Conservation Area. The site is partially mapped within the BMA - Buffer Modification Area and is currently improved with two single family detached dwellings and associated facilities.

APPLICANT'S PROPOSAL

The applicant constructed several improvements on the property without the proper approvals after damage from a tornado in 2021. The improvements include retaining walls, gazebo, decks, patio, driveway and walkways. The property is currently the subject of two violations under cases E-2024-377 and B-2024-557 and the applicant seeks to perfect these improvements.

REQUESTED VARIANCES

§ 17-8-201(a) of the Code stipulates that development in the Resource Conservation Area (RCA) may not occur within slopes of 15% or greater unless development will facilitate stabilization of the slope; is to allow connection to a public utility; or is to provide direct access to the shoreline. The decks, walkway, patio, pergola, patio, gazebo and retaining walls disturbed approximately 969 square feet of slopes of 15% or greater, necessitating a variance to this provision. Exact slope disturbance will be determined at the time of permit.

§ 18-13-104(a) of the Code requires that there shall be a minimum 100-foot buffer landward from the mean high-water line of tidal waters, tributary streams and tidal wetlands. § 18-13-104 (b) provides for an expanded buffer where there are contiguous steep slopes of 15% or more and is to be expanded by the greater of four feet for every 1% of slope or to the top of the slope and shall

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include all land within 50 feet from the top of the slopes. § 17-8-301 of the Subdivision Code states that development on properties containing buffers shall meet the requirements of Title 27 of the State Code of Maryland (COMAR). § 27.01.01 (B) (8) (ii) of COMAR states a buffer exists “to protect a stream tidal wetland tidal waters or terrestrial environment from human disturbance.” § 27.01.09 E. (1) (a) (ii) of COMAR authorizes disturbance to the buffer for a new development activity or redevelopment activity by variance. The driveway expansion, walkway, patio, pergola, deck, gazebo and retaining walls disturbed approximately 4,258 square feet of the expanded buffer, necessitating a variance to this provision. Exact buffer disturbance will be determined at the time of permit.

§ 17-8-402(b) of the Anne Arundel County Code stipulates that lots created before December 1, 1985 are subject to the lot coverage limits set forth in the chart. This lot was created before that date and with a lot size of 2.11 acres would have a lot coverage limit of 15% or 13,785 square feet. The existing lot coverage before the improvements were made was 12,722 square feet and post development lot coverage stands at 15,277 square feet, necessitating a variance of 1,492 square feet.

§ 18-4-401 of the Anne Arundel County Zoning Code stipulates that accessory structures in an RLD - Residential Low Density District shall be set back a minimum of 60 feet from the front lot line. The detached deck near 1818 Woods Road was constructed as close as 45.4 feet from the front lot line, necessitating a variance of 15 feet.

AGENCY COMMENTS

The **Health Department** commented that the proposal adversely affects the on-site sewage disposal and well water supply systems and recommends denial of the request.

The **Development Division (Critical Area Team)** commented that based on aerial imagery and the variance plan, the deck on the western dwelling included steep slope disturbance and is therefore also subject to a critical area variance. They indicated that the improvements are not the appropriate measure to stabilize the site conditions and do not meet the standards for variance approval. It is recommended that they be removed, with the possible exception of the retaining walls, and the site be revegetated and allowed to regenerate to its prior condition.

The **Critical Area Commission** commented that they oppose the after the fact variance request to exceed lot coverage limits and disturb the Critical Area Buffer and steep slopes. The requested variance fails to meet six of the seven Critical Area variance standards. The Buffer violation is severe, the impacts are long-standing, and the applicant has not met the substantive requirements for after-the-fact variance approval. Granting the requested variance would undermine the integrity of the Critical Area Program and erode decades of effort to protect the Chesapeake Bay.

The **Department of Inspections and Permits (Engineering Division)** did not take a position on the variance request but provided the following comments. Correctly label lot structures as either existing or proposed. The proposed improvements should be outlined in bold. Show and label existing and proposed stormwater management (SWM) devices. Provide required setbacks from septic, dry wells, wells, and structures. In addition, SWM devices cannot be installed within buffers.

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The **Cultural Resources Division** commented that a portion of this property is located within the confines of an archaeological site recorded in the State database (18AN430), late 18th-19th. The variance addresses existing conditions and presents no new additional disturbance. Please note that development applications for this property are subject to review per Article 17-6-502. Any additional proposed new disturbance would require review by the Cultural Resources Section.

FINDINGS

The property is of adequate size and width for a lot in the RLD District and was the subject of three previous zoning applications under cases 1999-0306-N, 2000-0115-S and 2000-0116-V. The 1999 case registered a second principal dwelling on the property with #1816 being considered the nonconforming dwelling. Under the cases in 2000, the property was granted a special exception to expand the floor area of the nonconforming dwelling along with a companion variance to disturb steep slopes in the expanded buffer.

For the granting of a critical area variance, a determination must be made on the following:

Because of certain unique physical conditions, such as exceptional topographical conditions peculiar to and inherent in the particular lot or irregularity, narrowness, or shallowness of lot size and shape, strict implementation of the County's critical area program would result in an unwarranted hardship or practical difficulty. In this case the presence of steep slopes in combination with the expanded buffer leaves little to no room for improvements to the property without variance relief. The applicant describes that the improvements were made to stabilize the property and control erosion due to tornado damage. As these improvements were made without the proper approvals, there is no way to verify the extent of the erosive conditions and determine if the improvements were the proper measures to restore and stabilize the property. While some variance relief may have been warranted based on an assessment of the property, this Office cannot make the determination that these improvements were appropriate to correct the damage done to the property by the tornado.

A literal interpretation of the County's critical area program will not deprive the applicant of rights that are commonly enjoyed by other properties in similar areas. The property has two principal dwellings with associated facilities that appear to provide reasonable and significant use of the property. The granting of the variance may confer on the applicant a special privilege that would be denied by COMAR, Title 27 as exceeding lot coverage limits is rarely supported by this Office. This request is a result of actions by the applicant as the improvements were constructed in violation without seeking the proper approvals. As stated in the Critical Area Commission comments, the variances may adversely affect water quality, impact fish, wildlife or plant habitat by increasing runoff and erosion while reducing riparian forest vegetation. As such, it is the opinion of this Office that the proposal is not in harmony with the general spirit and intent of the County's critical area program.

With regard to the requirements for all variances:

There is no evidence that the proposal will alter the essential character of the neighborhood or impair the appropriate use or development of adjacent property. However, based on comments

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from the Critical Area Commission and Health Department, it appears the environmental impacts and adverse impacts to the septic and well systems caused by the improvements may be detrimental to the public welfare. The improvements appear to be excessive and cannot be considered to be the minimum necessary to afford relief.

RECOMMENDATION

Based upon the standards set forth in § 18-16-305 under which a variance may be granted, this Office recommends ***denial*** of the proposed variances for the after the fact construction of the improvement as shown on the site plan.

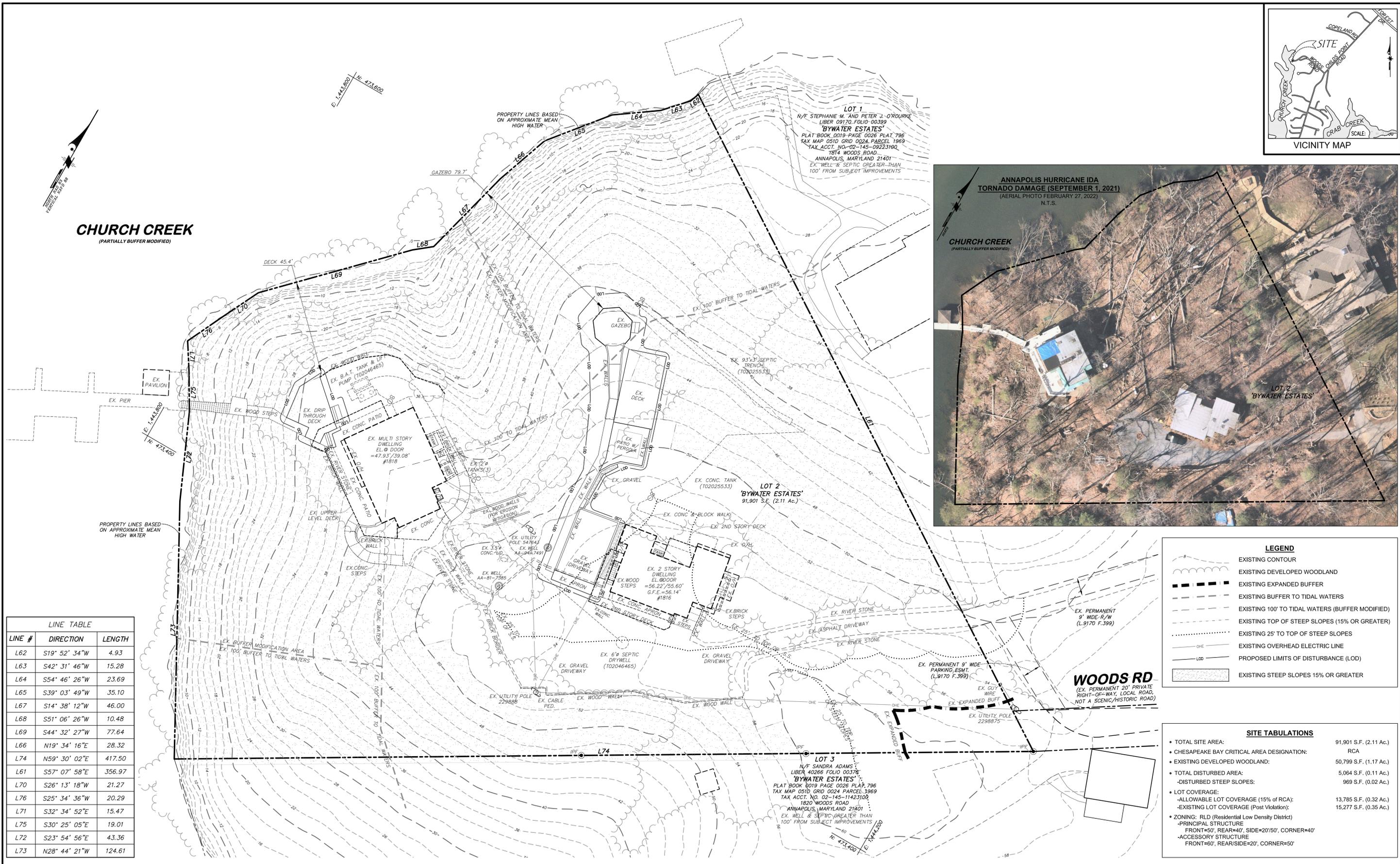
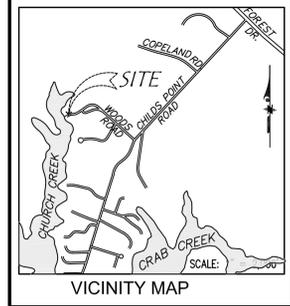
Should the variance be granted the approval shall be conditioned on the applicant completing the following within 90 days of the date of the decision:

(i) obtain an approved mitigation or restoration plan;

(ii) complete the abatement measures in accordance with the County critical area program;

(iii) paying any civil fines assessed and finally adjudicated

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.



CHURCH CREEK
(PARTIALLY BUFFER MODIFIED)

WOODS RD
(EX. PERMANENT 20' PRIVATE RIGHT-OF-WAY LOCAL ROAD, NOT A SCENIC/HISTORIC ROAD)

LINE #	DIRECTION	LENGTH
L62	S19° 52' 34"W	4.93
L63	S42° 31' 46"W	15.28
L64	S54° 46' 26"W	23.69
L65	S39° 03' 49"W	35.10
L67	S14° 38' 12"W	46.00
L68	S51° 06' 26"W	10.48
L69	S44° 32' 27"W	77.64
L66	N19° 34' 16"E	28.32
L74	N59° 30' 02"E	417.50
L61	S57° 07' 58"W	356.97
L70	S26° 13' 18"W	21.27
L76	S25° 34' 36"W	20.29
L71	S32° 34' 52"E	15.47
L75	S30° 25' 05"E	19.01
L72	S23° 54' 56"E	43.36
L73	N28° 44' 21"W	124.61

LEGEND

- EXISTING CONTOUR
- EXISTING DEVELOPED WOODLAND
- EXISTING EXPANDED BUFFER
- EXISTING BUFFER TO TIDAL WATERS
- EXISTING 100' TO TIDAL WATERS (BUFFER MODIFIED)
- EXISTING TOP OF STEEP SLOPES (15% OR GREATER)
- EXISTING 25' TO TOP OF STEEP SLOPES
- EXISTING OVERHEAD ELECTRIC LINE
- PROPOSED LIMITS OF DISTURBANCE (LOD)
- EXISTING STEEP SLOPES 15% OR GREATER

SITE TABULATIONS

- TOTAL SITE AREA: 91,901 S.F. (2.11 Ac.)
- CHESAPEAKE BAY CRITICAL AREA DESIGNATION: RCA
- EXISTING DEVELOPED WOODLAND: 50,799 S.F. (1.17 Ac.)
- TOTAL DISTURBED AREA: 5,064 S.F. (0.11 Ac.)
- DISTURBED STEEP SLOPES: 969 S.F. (0.02 Ac.)
- LOT COVERAGE:
 - ALLOWABLE LOT COVERAGE (15% OF RCA): 13,785 S.F. (0.32 Ac.)
 - EXISTING LOT COVERAGE (Post Violation): 15,277 S.F. (0.35 Ac.)
- ZONING: RLD (Residential Low Density District)
 - PRINCIPAL STRUCTURE: FRONT=50', REAR=40', SIDE=20'/50', CORNER=40'
 - ACCESSORY STRUCTURE: FRONT=60', REAR/SIDE=20', CORNER=50'

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DESIGNED: MWE DRAWN: WES
 ORIG. DATE: FEB. 21, 2025
 MODIFIED BY/DATE:
 CADD DWG # BD19824-GP
 DLA PROJECT # BD19824

REVISIONS TO APPROVED PLANS			
No.	DATE	BY	DESCRIPTION

Drum, Loyka & Associates, LLC
 CIVIL ENGINEERS - LAND SURVEYORS
 1410 Forest Drive, Suite 35
 Annapolis, Maryland 21403
 Phone: 410-280-3122
 www.drumloyka.com | info@drumloyka.com

OWNER:
 JOHN F. DOLAN, II
 1818 WOODS ROAD
 ANNAPOLIS, MD 21401
 jdolani@gmail.com

VARIANCE PLAN
BYWATER ESTATES ~ LOT 2
 1818 WOODS ROAD, ANNAPOLIS, MD 21401
 TAX MAP 51D GRID 24 PARCEL 1969 DISTRICT 2ND
 TAX ACCT. NO. 02-145-04271000
 ANNE ARUNDEL COUNTY, MARYLAND

SCALE: 1"=20'	DATE: NOV. 10, 2025	PROJ. NO: BD19824	SHEET 1 OF 1
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November 14, 2025

Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, 3rd Floor
Annapolis, MD 21401

RE: Variance Request
BYWATER ESTATES LOT 2
1818 Woods Road
Annapolis, Maryland 21401
Tax Account #02-145-04271000

Dear Sir/Madam:

On behalf of the property owner Mr. John Francis Dolan II, please find enclosed the revised variance site plan dated November 10, 2025.

The site plan has been revised to provide additional clarity to the Woods Road private right-of-way and the adjacent private driveway. The adjacent property owner reached out to our firm and commented that the plan did not clearly distinguish the division between where the Woods Road private driveway easement on Lot 1 (running south to north) and the and the 20-ft wide private right-of-way (running west to east).

The applicant/owner is seeking a zoning variance and Critical Area variances to the following County Codes to allow relief to perfect a detached deck, pergola, gazebo, walk, and retaining walls subject to violations E-2024-377 and B-2024-557.

Zoning:

- **Article 18, Section 4-401** relief of 15 ft to the required 60-foot accessory structure front yard setback in the Residential Low Density zoning district. To allow the pervious deck attached to the western dwelling to remain 45.4 feet from the front lot line.

Critical Area:

- **Article 17, Section 8-702** relief of 969 square feet of disturbance to the steep slopes 15% and greater in the Resource Conservation Area designation of the Chesapeake Bay Critical Area for the constructed western dwelling detached deck, and the eastern dwelling walk, patio, pergola, deck, gazebo, and retaining walls.
- **Article 18, Section 13-104** relief of 4,258 square feet of disturbance in the expanded buffer for the construction of the driveway expansion, walk, patio, pergola, deck, gazebo, and retaining walls adjacent to the eastern dwelling.
- **Article 17, Section 8-402** relief to allow 1,492 square feet of additional site lot coverage beyond the allowable 15% in the Chesapeake Bay Resource Conservation Area.

Property Description

The subject property is grandfathered waterfront lot located in the subdivision of Bywater Estates, in Annapolis, which was recorded in the land records of Anne Arundel County, dated June, 1941. The property is an irregular shaped waterfront property improved with two single-family detached dwellings with attached decks, walks, gravel driveway, and associated improvements. The subject property is approximately 91,901 square feet (2.11Ac) in area, zoned mostly RLD, and is entirely within the Chesapeake Bay Critical Area with a Resource Conservation Area (RCA) land use designation. The site is located on a point with surrounding shoreline along Church Creek, and is designated with portion located in both Buffer Modified Area and Non-Buffer Modified Area. Steep slopes are present along all of the shoreline and extend beyond the 100-ft to tidal waters, causing the tidal water buffer to expand on the Non-Buffer Modified portion of the site. The expanded buffer encumbers most of the property beyond the steep slopes and all of the site improvements are located within the either the 100-ft to tidal waters or the expanded buffer. The pre-violation lot coverage was 12,722 square feet and the sites current lot coverage is 15,277 square feet. The existing dwellings were constructed in 1962 according to the Maryland State Department of Assessments and Taxation, prior to the Critical Area and zoning code. Each of the dwellings are served on independent private sewage disposal systems and their own private wells for potable water.

Proposed Conditions & Reason For Variance Request

On September 1, 2021 the property sustained extensive damage from a catastrophic tornado. On that day Mrs. Dolan was inside their home and escaped to the basement with their dogs as the storm destroyed portions of the house and more than 55 mature trees. The tornado left their property devastated, destabilized, and unsafe. The tornado damage forced them to vacate their home for over two years, living first in hotels and then in rentals, while they undertook a multi-year rebuild of both the residence and the property at a substantial cost. The event was traumatic for the owners, but the aftermath proved even more daunting as they had returned not to a restored landscape, but to a barren, eroding slope at risk of mudslides, runoff, and further collapse.

In an effort to stabilize the property, protect water quality, and begin the long process of restoration, they implemented critical erosion-control measures. These included planting new trees and shrubs, reinforcing the slope, and constructing a retaining/erosion wall to replace the root structure lost with the trees. The cost since the reconstruction is daunting and was spent in an effort to make the home and property safe, and secure. In conjunction with those stabilization efforts, they also constructed the improvements subject the violation issued which include a gazebo, pergola, deck, patio, walks within the already disturbed area but result in an overall increase in site lot coverage beyond the allowable 15%. The coverage of these structures and surfaces provide permanent stabilization of the eroding slopes and expanded buffer which was rendered unstable by the tornado damage. They were constructed without permitting and the applicant wishes to seek after-the-fact permits to perfect the improvements and to abate the violations E-2024-377 and B-2024-557.

Conclusion

These variances requested represents the minimum disturbance necessary to construct the improvements. The tornado of September 1, 2021, left the applicants family with an

unprecedented loss of home, land, and stability. They have worked for over four years to restore and protect their property, investing in erosion control, replanting, and slope stabilization to safeguard both our home and the waterway. The modest structures built within this framework are essential to the property's safety and usability, and their removal would create new risks and hardships.

A buffer management plan will be provided for on-site mitigation plantings in accordance with code requirements. With the implementation of sediment and erosion controls, and plantings the development will not adversely affect water quality, impact fish, wildlife or plant habitat and be in harmony with the Critical Area program. We believe that this request meets all the requirements for a Critical Area variance:

Code Article 18-16-305

(a) Requirements for zoning variance.

- (1) Because of the sites unique physical conditions, specifically the distance of the western dwelling from the front property line is only 73.5-feet and most of that area between the house and the slopes contains the existing septic system. Therefore, a strict conformance with the code would cause an unnecessary hardship to allow the owner to develop the property with a modest sized waterside deck, similar to amenities that are enjoyed by other waterfront properties.

(b) Requirements for Critical Area Variances.

- (1) Unwarranted Hardship- Unique physical conditions including topography, the irregularly shaped lot, proximity of the improvements to the shoreline present significant constraints. The tornado caused exceptional canopy loss and slope destabilization, creating conditions not inherent in surrounding properties. A strict implementation of the regulations would deny significant and reasonable use of their property. The improvements provide permanent slope stabilization and erosion control. Removal of the structures and surfaces would re-expose the property to erosion and destabilize the slopes, undoing years of restoration and threatening water quality and neighboring properties.
- (2) Rights commonly enjoyed - the proposed improvements are in character with other waterfront properties in the Critical Area. The improvements are features commonly found throughout the neighboring waterfront properties. To deny the applicant the ability to have these improvements would deprives the applicants safe outdoor living space and stabilization structures, rights commonly enjoyed by other property owners in the area with comparable sized lots in excess of 2 acres.
- (3) Will not confer special privilege - granting this variance would not confer a special privilege to the applicants. Each of the improvements are modest in size, nearby properties enjoy improvements larger in scale and are greater. The improvements are sited within areas of the site which were already disturbed by the tornado. The applicants appreciate that the constraints of the critical area law do not allow for development of much more than what they have proposed.
- (4) Actions by Applicants and Neighbors- The variance is not based on conditions or circumstances that are the result of actions by the applicants or conditions or use on neighboring properties- conditions and circumstances are based on the need for stabilization as a result of a natural disaster, not from voluntary clearing or elective development.

- (5) Water Quality, Intent of the Critical Area Program. The requested variances will not adversely affect water quality, impact fish, wildlife or plant habitat and be in harmony with the critical area program. Disturbance is minimized to only what is necessary to provide permanent stabilization measures, replanting has reduced runoff, improved slope stability, and enhanced water quality outcomes compared to leaving the site barren. Mitigation will occur in accordance with county regulations for new lot coverage and buffer disturbance and will be addressed during the permitting process via a Buffer Management Plan. Sediment and erosion controls including a silt fence have been utilized to ensure that construction and grading would not adversely affect the surrounding environmental features located within the Critical Area. These precautions will ensure that water quality, fish, wildlife, and plant habitat will not be adversely affected.
- (6) The applicant for a variance to allow development in the 100-foot upland buffer has maximized the distance between the bog and each structure, taking into account natural features and the replacement of utilities, and has met the requirements of § 17-9-208 of this Code; there is no bogs or associated bog buffers on the site and the improvements were sited within area which were already disturbed by the tornado.
- (7) Presumption Sec 8-1808(d)(2)(ii) – In light of all the factors discussed above, it is evident that the applicants have overcome the presumption that the use for which the variances were requested were not in conformity with the purpose and intent of the Critical Area Program. By planting vegetation, reinforcing the slope, and integrating structures into stabilization, we have improved environmental conditions relative to the post-storm landscape. The applicant has evaluated and implemented site planning alternatives in accordance with § 18-16-201(c). Alternatives such as leaving the slope bare or constructing more intrusive retaining walls were not environmentally favorable. The applicant’s solution balances stabilization, safety, and minimal impact by not creating additional site disturbance beyond what was done by the natural disaster.

(c) Requirements for all variances.

1. Minimum necessary to afford relief - The proposed variances allow for modest uses that not only meets the “significant and reasonable standard” but also are the minimal necessary development to afford relief. The size and scale of the improvements are of similar character of waterfront properties in excess of two acres. The disturbance to the buffer is the minimum necessary for the improvements and was initially disturbed by actions of the owner.
2. The granting of the variance will not:
 - i. alter the essential character of the neighborhood, and all proposed development will be harmonious with the architectural styles and scale of the surrounding area.
 - ii. substantially impair the appropriate use or development of adjacent properties.
 - iii. reduce forest cover in the RCA. No additional vegetative clearing was proposed outside of what had already occurred by the natural disaster. Any existing tree canopy which remains within the limit of disturbance will be mitigated appropriately during the permit process with a buffer management plan.

- iv. be contrary to acceptable clearing or replanting practices required for development of the Critical Area or Bog Protection Area, the property is not located within a Bog Protection Area.
- v. be detrimental to the public welfare as constructing the improvements which provide stabilization on a residentially zoned property will not impose harm to adjacent property owners or the public.

Denial of the requested variances and a strict implementation of the County's Zoning and Critical Area Program would constitute an unwarranted hardship on the applicant and deprive them of the right to develop, and deny reasonable and significant use of the entire property. Reforestation and stormwater management will be provided on-site to the maximum extent practical.

We respectfully request that the variance be granted as the minimum necessary relief to allow the owner to restore and reasonably use their property after this natural disaster, in alignment with the intent of the County's critical area program.

We appreciate your consideration of the enclosed variance request and we remain available to answer any questions you may have.

Sincerely,
DRUM, LOYKA AND ASSOCIATES, LLC

Michael M. Drum, P.E

Cc: John Francis Dolan II

AFTER RECORDING RETURN TO:
John Francis Dolan, II
1818 Woods Road
Annapolis, MD 21401

DOCUMENT PREPARED BY:
Sage Title Group, LLC
183 Harry S. Truman Parkway, Suite 116
Annapolis, MD 21401
File Number: 323823SEPS

Tax ID#: 02-145-04271000

This Deed, MADE THIS 10th day of May, 2021, by and between **Richard E. Grodsky and Michelle C. Grodsky**, parties of the first part, and **John Francis Dolan, II**, party of the second part.

WITNESSETH, That in consideration of the sum of **ONE MILLION FOUR HUNDRED NINETY FIVE THOUSAND AND 00/100 DOLLARS (\$1,495,000.00)**, the receipt of which is hereby acknowledged, the said parties of the first part do grant and convey to the said party of the second part, in fee simple, as sole owner, all that parcel of ground situated in **Anne Arundel County, Maryland** and as described as follows, that is to say:

Being known and designated as Lot numbered Two (2) of Bywater Estates as shown on a Plat of the same, made by J.R. McCrone, Jr., Surveyor, in July 1946 and recorded among the Land Records of Anne Arundel County, Maryland in Plat Book 19, Page 26.

The improvements thereon being known as 1818 Woods Road, Annapolis, Maryland 21401.

Tax ID#: 02-145-04271000

BEING the same property which by deed dated August 1, 2019 and recorded among the Land Records of Anne Arundel County, Maryland in Liber No. 33419, folio 381, was granted and conveyed by Bruce G. Potter unto Richard E. Grodsky and Michelle C. Grodsky.

TOGETHER with the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

SUBJECT TO all rights, easements, restrictions, covenants and reservations of record.

TO HAVE AND TO HOLD the said described lot(s) of ground and premises to the said party of the second part, as sole owner, his personal representatives, heirs and assigns, in fee simple.

Buyers' Initials: RFD

AND the said parties of the first part do 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. 02-145-04271000
ALL LIENS ARE PAID AS
OF 05-21-2021 A.A. COUNTY
BY: LO

Anne Arundel Cty Finance Office
County Transfer Tax \$14,950.00
County Recordation Tax \$10,465.00
05/21/2021 16:09 PM LO

Anne Arundel Cty Cir Crt
IMP FD SURE \$40.00
RECORDING FEE \$20.00
TR TAX STATE \$7,475.00
TOTAL \$7,535.00
SAP WO
Jun 05, 2021 08:57 am

ANNE ARUNDEL COUNTY CIRCUIT COURT (Land Records) SAP 36916, p. 0252, MSA_CE59_37358. Date available 06/16/2021. Printed 02/18/2025.

WITNESS the hands and seals of the said parties of the first part:

WITNESS:

Richard E. Grodsky (SEAL)

Michelle C. Grodsky (SEAL)

STATE OF MARYLAND, CITY/COUNTY OF MONTGOMERY to wit:

I HEREBY CERTIFY, that on this 7th day of MAY, 2021, before me, the subscriber, a Notary Public of the State of MD in and for MTG County/City, personally appeared **Richard E. Grodsky and Michelle C. Grodsky** known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument and acknowledged the foregoing Deed to be their act, and in my presence signed and sealed the same.

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

DAVID ARTINO
Notary Public

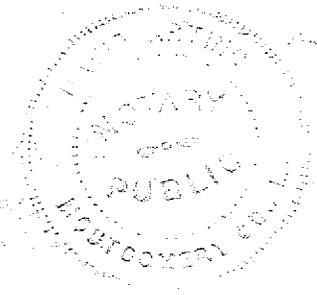
DAVID ARTINO
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires July 16, 2022

My Commission Expires: July 16, 2022

ATTORNEY CERTIFICATION

This is to certify that the within instrument was prepared under the supervision of an Attorney duly admitted to practice before the Court of Appeals in the State of Maryland.

Stephen McClung, Esq.



OWNER OCCUPANCY AFFIDAVIT

THE WITHIN GRANTEE DO HEREBY CERTIFY UNDER THE PENALTY OF PERJURY THAT THE LAND CONVEYED HEREIN IS RESIDENTIALLY IMPROVED OWNER-OCCUPIED REAL PROPERTY AND THAT THE RESIDENCE WILL BE OCCUPIED BY MYSELF AT LEAST 7 OUT OF 12 MONTHS IMMEDIATELY AFTER THE PROPERTY IS CONVEYED AS EVIDENCED BY THE SIGNATURE BELOW

WITNESS the hand and seal of the said party of the second part:

WITNESS:

John Francis Dolan, II (SEAL)

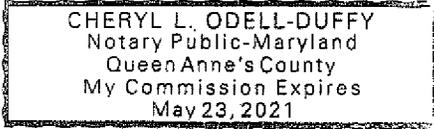
STATE OF Maryland, CITY/COUNTY OF Queen Anne's to wit:

I HEREBY CERTIFY, that on this 10th day of May, 2021, before me, the subscriber, a Notary Public of the State of Maryland in and for Queen Anne's County/City, personally appeared **John Francis Dolan, II** known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged the foregoing Deed to be his act, and in my presence signed and sealed the same.

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

[Signature]
Notary Public

My Commission Expires: 5-23-21



ANNE ARUNDEL COUNTY CIRCUIT COURT (Land Records) SAP 36916, p. 0254, MSA_CE59_37358. Date available 06/16/2021. Printed 02/18/2025.

AFFIDAVIT OF INDIVIDUAL(S)
TO QUALIFY FOR TAX EXEMPTION FOR FIRST TIME MARYLAND HOMEBUYER(S)

Grantee(s) hereby make oath or affirm under penalties of perjury that the following statements are true:

1. The undersigned individuals and each of them has/have never before owned an interest in residential real property located in the State of Maryland that has been the individual's principal residence; and
2. The property described in the Deed to which this affidavit is attached is improved by a residence which will be occupied as my/our principal residence for at least 7 of the 12 months immediately following the conveyance herein; and
3. I/we am/are fully qualified to make this affidavit.
4. This affidavit is made to qualify Grantee(s) for benefits under TP section 13-203.
5. In the event the hereinabove statements are being certified by an agent pursuant to Tax-Property Section 13-409(b), said Agent certifies:
 - a. That the representations are based on a diligent inquiry made by the agent; and
 - b. Are true to the best knowledge information and belief of the agent.

WITNESS the hand and seal of the said party of the second part:

WITNESS:

_____ (SEAL)

 John Francis Dolan, II

STATE OF Maryland, CITY/COUNTY OF Queen Anne's to wit:

I HEREBY CERTIFY, that on this 10th day of May, 2021, before me, the subscriber, a Notary Public of the State of Maryland in and for Queen Anne's County/City, personally appeared **John Francis Dolan, II** known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged the foregoing Deed to be his 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: _____

MARYLAND FORM WH-AR

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

2021

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 E. Grodsky

2. Description of Property (Street address, if no address is available, include county, district, subdistrict and lot numbers.)

1818 Woods Road, Annapolis MD

3. Reasons for Exemption

Resident Status [X] 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

Richard E. Grodsky Name

5/2/21 **Date

[Handwritten Signature]

Witness

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

2021

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 Michelle C. Grodsky

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

1818 Woods Road, Annapolis MD

3. Reasons for Exemption

Resident Status

[X] 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

Michelle C. Grodsky Name

5/7/21 **Date

Witness

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.

21-49

State of Maryland Land Instrument Intake Sheet

Baltimore City 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	Conveyance Type Check Box	2 Deed of Trust	Lease		
		<input checked="" type="checkbox"/> 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) Cite or Explain Authority	Recordation			
		State Transfer			
		County Transfer			

4	Consideration and Tax Calculations	Consideration Amount		Finance Office Use Only		
		Purchase Price/Consideration	\$1,495,000.00	Transfer and Recordation Tax Consideration		
		Any New Mortgage	\$1,495,000.00	Transfer Tax Consideration	\$	
		Balance of Existing Mortgage		X () % =	\$	
		Other:	\$	Less Exemption Amount - Total Transfer Tax =	\$	
		Other:	\$	Recordation Tax Consideration X() per \$500 =	\$	
	Full Cash Value	\$	TOTAL DUE	\$		

5	Fees	Amount of Fees		Doc 1	Doc 2	Agent
		Recording Charge	\$20.00	\$20.00		
		Surcharge	\$40.00	\$40.00		Tax Bill
		State Recordation Tax	\$10,465.00	\$		C B Credit
		State Transfer Tax	\$7,475.00	\$		Ag Tax/Other
		County Transfer Tax	\$14,950.00	\$		
		Other	\$	\$		
		Other	\$	\$		

6	Description of Property 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).	District	Property Tax ID No.(1)	Grantor Liber/Folio	Map	Parcel No.	Var. Log <input type="checkbox"/> (5)		
			02-145-04271000	/					
		Subdivision Name		Lot (3a)	Block (3b)	SectAR(3c)	Plat Ref.	SqFt/Acreage(4)	
		Bywater Estates		2			32/22		
		Location/Address of Property Being Conveyed (2)							
		1818 Woods Road, Annapolis, MD 21401							
Other Property Identifiers (if applicable)						Water meter Account			
Residential <input checked="" type="checkbox"/> or Non-Residential <input type="checkbox"/>		Fee Simple <input checked="" type="checkbox"/> Ground Rent <input type="checkbox"/> Amount							
Partial Conveyance <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Description/Amt. Of SqFt/Acreage Transferred:							
If Partial Conveyance, List Improvements Conveyed-									

7	Transferred From	Grantor(s) Name(s)		Doc 2 - Grantor(s) Name(s)	
		Richard E. Grodsky		John Francis Dolan, II	
		Michelle C. Grodsky			
		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)	
		John Francis Dolan, II		James P. Hodges, Esq.	
		New Owner's (Grantee) Mailing Address			
1818 Woods Road, Annapolis, MD 21401					

9	Other Names to Be Indexed	Doc 1 - Additional Names to be indexed (Optional)		Doc 2 - Additional Names to be indexed (Optional)	
				McLean Mortgage Corporation	

10	Contact/Mail information	Instrument Submitted By or Contact Person				<input type="checkbox"/> Return to Contact Person
		Name: Diane Meyer				<input type="checkbox"/> Hold for Pickup
		Firm: Sage Title Group, LLC				<input checked="" type="checkbox"/> Return Address Provided
		Address: 183 Harry S. Truman Parkway, Suite 116 Annapolis, MD 21401 Phone: 410-266-7566				

IMPORTANT! BOTH THE ORIGINAL DEED AND A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER

Assessment Information	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Will the property being conveyed be the grantee's principal residence?
	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Does transfer include personal property? If yes, identify
	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Was property surveyed? If yes, attach copy of survey (if recorded, no copy required)

Assessment Use Only - Do Not Write Below This Line

<input type="checkbox"/> Terminal Verification	<input type="checkbox"/> Agricultural	<input type="checkbox"/> Whole	<input type="checkbox"/> Part	<input type="checkbox"/> Tran Process Verification
Transfer Number:	Date Received:	Deed Reference:		Assigned Property No.
Year		Geo	Map	Sub
Land		Zoning	Grid	Plat
Buildings		Use	Parcel	Section
Total		Town Cd.	Ex. St.	Ex. Cd.

REMARKS:

Grantor's Mailing Address:

ANNE ARUNDEL COUNTY CIRCUIT COURT (Land Records) SAP 36916, p. 0258, MSA_CE59_37358. Date available 06/16/2021. Printed 02/18/2025.

Chesapeake Bay Critical Area Report

Bywater Estates Lot 2

Tax map 51D, Grid 24, Parcel 1969

Tax Account # 02-485-11240900

Property Address: 1818 Woods Road, Annapolis, MD

Owner & Variance Applicant: John F. Dolan, II

Critical Area Designation: RCA **Zoning:** RLD **Lot Area:** 2.11 Ac.

Site Description

The subject property is grandfathered waterfront lot located in the subdivision of Bywater Estates, in Annapolis, which was recorded in the land records of Anne Arundel County, dated June, 1941. The property is an irregular shaped waterfront property improved with two single-family detached dwellings with attached decks, walks, gravel driveway, and associated improvements. The subject property is approximately 91,901 square feet (2.11Ac) in area, zoned mostly RLD, and is entirely within the Chesapeake Bay Critical Area with a Resource Conservation Area (RCA) land use designation. The site is located on a point with surrounding shoreline along Church Creek, and is designated with portion located in both Buffer Modified Area and Non-Buffer Modified Area. Steep slopes are present along all of the shoreline and extend beyond the 100-ft to tidal waters, causing the tidal water buffer to expand on the Non-Buffer Modified portion of the site. The expanded buffer encumbers most of the property beyond the steep slopes and all of the site improvements are located within the either the 100-ft to tidal waters or the expanded buffer. The pre-violation lot coverage was 12,722 square feet and the sites current lot coverage is 15,277 square feet. The existing dwellings were constructed in 1962 according to the Maryland State Department of Assessments and Taxation, prior to the Critical Area and zoning code. Each of the dwellings are served on independent private sewage disposal systems and their own private wells for potable water.

Description and Purpose of Variance Request

Requested Variances:

Zoning:

- **Article 18, Section 4-401** relief of 15 ft to the required 60-foot accessory structure front yard setback in the Residential Low Density zoning district. To allow the pervious deck attached to the western dwelling to remain 45.4 feet from the front lot line.

Critical Area:

- **Article 17, Section 8-702** relief of 969 square feet of disturbance to the steep slopes 15% and greater in the Resource Conservation Area designation of the Chesapeake Bay Critical Area for the constructed western dwelling detached deck, and the eastern dwelling walk, patio, pergola, deck, gazebo, and retaining walls.
- **Article 18, Section 13-104** relief of 4,258 square feet of disturbance in the expanded buffer for the construction of the driveway expansion, walk, patio, pergola, deck, gazebo, and retaining walls adjacent to the eastern dwelling.
- **Article 17, Section 8-402** relief to allow 1,492 square feet of additional site lot coverage beyond the allowable 15% in the Chesapeake Bay Resource Conservation Area.

On September 1, 2021 the property sustained extensive damage from a catastrophic tornado. On that day—my wife’s birthday—she was inside their home and escaped to the basement with their dogs as the storm destroyed the house and more than 55 mature trees. The tornado left their property devastated, destabilized, and unsafe. The tornado damage forced them to vacate their home for over two years, living first in hotels and then in rentals, while they undertook a multi-year rebuild of both the residence and the property at a cost approaching \$1 million (loss alone). The event was traumatic for the owners, but the aftermath proved even more daunting as they had returned not to a restored landscape, but to a barren, eroding slope at risk of mudslides, runoff, and further collapse.

In an effort to stabilize the property, protect water quality, and begin the long process of restoration, they implemented critical erosion-control measures. These included planting new trees and shrubs, reinforcing the slope, and constructing a retaining/erosion wall to replace the root structure lost with the trees. The cost since the reconstruction is daunting and was spent in an effort to make the home and property safe, and secure. In conjunction with those stabilization efforts, they also constructed the improvements subject the violation issued which include a gazebo, pergola, deck, patio, walks, and expanded driveway within the already disturbed area but result in an overall increase in site lot coverage beyond the allowable 15%. The coverage of these structures and surfaces provide permanent stabilization of the eroding slopes and expanded buffer which was rendered unstable by the tornado damage. They were constructed without permitting and the applicant wishes to seek after-the-fact permits to perfect the improvements and to abate the violations E-2024-377 and B-2024-557.

The need for the requested Critical Area variances arise from the Unique physical conditions including topography, the irregularly shaped lot, proximity of the improvements to the shoreline present significant constraints. The tornado caused exceptional canopy loss and slope destabilization.

Buffers

The site is located on a point with surrounding shoreline along Church Creek, and is designated with portion located in both Buffer Modified Area and Non-Buffer Modified Area. Steep slopes are present along all of the shoreline and extend beyond the 100-ft to tidal waters, causing the tidal water buffer to expand on the Non-Buffer Modified portion of the site. The expanded buffer encumbers nearly all of the property beyond the crest of the steep slopes and all of the site improvements are located within the either the 100-ft to tidal waters or the expanded buffer. The newly constructed improvements subject to the variance result in a total of 4,258 square feet of buffer disturbance. Specifically, 3,352 square feet of permanent disturbance for the structures and impervious surfaces and grading, and 906 square feet of temporary disturbance for construction access. A 25-ft buffer to the crest of the steep runs though the existing gravel driveway and house and the newly constructed portion of the driveway. Most of the property is encumbered by buffers.

Vegetative Coverage

The undeveloped areas of the property are mostly vegetatively stabilized with turf lawn areas, mature developed woodland and scrub, ornamental shrubs and creeping ivy. Steep slope areas are mostly stabilized with mature trees and ivy. The existing tree canopy area (post tornado) is approximately 50,799 s.f. (1.17ac.). The tree canopy located within the limits of disturbance is approximately 481 s.f. (0.01 ac.).

Lot Coverage

Prior to the violation, the site had approximately 12,722 s.f. (0.29 Ac.) of lot coverage, the site currently has 15,277 s.f. (0.35 Ac.) of lot coverage. Resulting in a net increase of 2,555 s.f., and 1,492 s.f. beyond the sites allowable lot coverage of 13,785 s.f. (0.32 Ac.) in the RCA Critical Area designation. The all of which is within the Chesapeake Bay Critical Area Limited Development Area (LDA) portion of the property.

Steep Slopes (slopes > 15%)

Most of the undeveloped portions of the subject property are encumbered with steep slopes of 15% or greater. These steep slopes were mostly wooded, and extend up from the shoreline. There is approximately 969 s.f. of steep slopes are located within the limits of disturbance. Of that area, 563 s.f. is permanent disturbance and 406 s.f. is temporary disturbance. A 25-ft buffer to steep slopes encumbers most of the site improvements.

Predominant Soils

The predominant soil types in the area are of Annapolis fine sandy loam soils, 2 to 5 percent slopes (AsB), Annapolis fine sandy loam soils, 5 to 10 percent slopes (AsC), and Annapolis fine sandy loam soils 15 to 25 percent slopes (AsE).

AsE soils are considered hydric and can be considered highly Erodible when located in areas with slopes greater than 15%, these soils are located primarily within the area of the expanded buffer to tidal waters and steep slopes.

FEMA Floodplain

The subject property appears on FEMA Firm panel no. 24003C0233F. The property is located in floodplain Zone AE with a base flood elevation of 5.0-ft (NAVD88). No disturbance or improvements are proposed within the flood zone.

Drainage and Rainwater Control

There does not appear to be any existing stormwater management on site. The drainage patterns remain relatively unchanged from the predevelopment conditions. Stormwater management will be addressed during the permitting process in accordance with code requirements. Sediment and Erosion control is achieved through perimeter control of silt fence. The property owner has planted numerous shrubs along the crest of the slopes to provide slope stabilization and reduction of stormwater runoff. In the post development condition, the development will have no adverse effect on the sensitive environmental features of the site and surrounding areas and site disturbance will be mitigated onsite per the Mitigation Planting and Buffer Management plan during the permitting process in order to meet Anne Arundel County and MDE design criteria.

Conclusions – Variance Standards

The applicant proposes to perfect the detached decks, gazebo, walk and retaining walls subject to violations E-2024-377 and B-2024-557. The need for the requested Critical Area Variance arises from the existing unique nature and constraints of this property and natural disaster disturbance, specifically the irregular shape of the lot, and the location of the existing dwellings in relation to the shoreline and steep slopes causing majority of the property to be encumbered by buffers. It is not possible to complete this project without relief to disturb the expanded buffer and steep slopes. The proposed improvements are similar in size of amenities of other waterfront homes in excess of two acres therefore will not alter the essential character of the neighborhood, impair

development of adjacent properties, or be detrimental to the public welfare. To deny the requested variance would deprive the applicant of rights commonly enjoyed by other properties in the immediate area and reasonable and significant use of their property. With the implementation of mitigation planting, and sediment and erosion control practices, the development will not cause adverse impacts to fish, wildlife, or water quality in the Critical Area.

Reference:

ADC: The Map People, 2002 Anne Arundel County, Maryland, Street Map Book

Anne Arundel County Office of Planning & Zoning, Critical Area Map

Anne Arundel County Office of Planning & Zoning, Buffer Exemption Map

Anne Arundel County, Maryland; Chesapeake Bay Critical Area Mapping Program, Critical Area Map

Federal Emergency Management Agency, 2016. Flood Insurance Rate Map

First American Real Estate Solutions, 2002, Realty Atlas: Anne Arundel County Maryland

Drum, Loyka and Associates LLC, September 2025 Variance Plan

U.S. Department of Agriculture, Natural Resource Conservation Service –2016 Soil Survey of Anne Arundel County Maryland.

CRITICAL AREA COMMISSION
 FOR THE 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 12, 2025

Tax Map #	Parcel #	Block #	Lot #	Section
51D	1969	24	2	

FOR RESUBMITTAL ONLY

Corrections

Redesign

No Change

Non-Critical Area

* Complete only Page 1
 General Project Information

Tax ID 02-145-04271000

Project Name (site name, subdivision name, or other) Bywater Estates ~ Lot 2

Project location/Address 1818 Woods Road

City Annapolis, Maryland Zip 21401

Local case number

Applicant: Last name Dolan, III First name John F.

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 checked="" type="checkbox"/> | Subdivision | <input type="checkbox"/> |
| Grading Permit | <input checked="" type="checkbox"/> | Other | <input type="checkbox"/> |

Local Jurisdiction Contact Information:

Last name: First name

Phone # Response from Commission Required By

Fax # Hearing date

SPECIFIC PROJECT INFORMATION

Describe Proposed use of project site:

To reconstruct decks, gazebo, patio and pergola, walk and gravel driveway with retaining walls.

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

Project Type (check all that apply)

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

SITE INVENTORY (Enter acres or square feet)

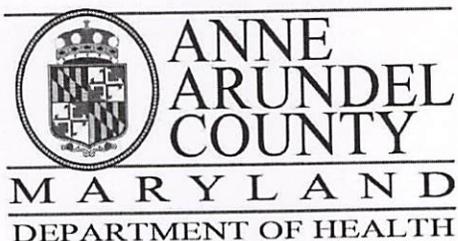
	Acres	Sq Ft		Acres	Sq Ft
			Total Disturbed Area	0.10	
IDA Area	0.00		# of Lots Created	n/a	
LDA Area	0.00				
RCA Area	2.11				
Total Disturbed Area	0.10				

	Acres	Sq Ft		Acres	Sq Ft
Existing Forest/Woodland/Trees	1.03		Existing Lot Coverage	0.29	
Created Forest/Woodland/Trees	TBD		New Lot Coverage	0.06	
Removed Forest/Woodland/Trees		481	Removed Lot Coverage	0.0	
			Total Lot Coverage	0.35	

VARIANCE INFORMATION (Check all that apply)

	Acres	Sq Ft		Acres	Sq Ft
Buffer Disturbance	0.9		Buffer Forest Clearing		481
Non-Buffer Disturbance	0.00		Mitigation	TBD	

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



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: September 25, 2025

RE: John Francis Dolan II
1818 Woods Road
Annapolis, MD 21401

NUMBER: 2025-0183-V

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance to perfect an accessory structure at 1818 (detached deck) and accessory structures at 1816 (gazebo, detached deck, patio with pergola, walk, driveway and retaining wall) with less setbacks and buffer than required, with disturbance to steep slopes of 15% or greater, and with greater lot coverage than allowed .

The Health Department has reviewed the on-site sewage disposal and water supply system for the above referenced property. The Health Department has determined that the proposed request adversely affects the on-site sewage disposal and well water supply systems. The Health Department recommends denial of the above referenced request.

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

cc: Sterling Seay

2025-0183-V

Menu Cancel Help

Task Details OPZ Critical Area Team

Assigned Date

09/18/2025

Assigned to

Kelly Krinetz

Current Status

Complete w/ Comments

Action By

Kelly Krinetz

Comments

Based on aerial imagery and the variance plan, the deck on the western dwelling included steep slope disturbance and is therefore also subject to a Critical Area variance.

Standard practice when reviewing an after the fact variance is to consider whether the improvements could have been supported if the applicant had followed the proper procedure and in this case, I can confidently say that we would not. In the event that they could not have been supported if applied for correctly, they in no way should be supported when constructed in violation. While I am of course sympathetic to the situation, to say that these improvements are the appropriate measure to stabilize the site conditions would be a reckless determination. These improvements do not meet the standards for the approval of a variance application and it is my recommendation that they be removed, with perhaps the exception of the retaining walls, and the area be revegetated and allow to regenerate to its prior condition.

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

Task Specific Information

Due Date

10/09/2025

Assigned to Departm

OPZ Critical Area

Status Date

10/07/2025

Overtime

No

Start Time

Hours Spent

0.0

Action by Departm

OPZ Critical Area

Est. Completion D.

Display E-mail

Display Comm

Expiration Date
Reviewer Phone Number

Review Notes
Reviewer Email

Reviewer Name

Wes Moore
Governor

Aruna Miller
Lt. Governor



Erik Fisher
Chair

Nick Kelly
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

November 17, 2025

Ms. Sterling Seay
Planning Administrator
Anne Arundel County Zoning Division
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

**Re: 2025-0183-V; 1818 Woods Road, Annapolis, Maryland 21401
Dolan After-the-Fact Variance**

Dear Ms. Seay,

Thank you for providing the above-referenced after-the-fact variance requests to both retain unpermitted improvements in the Critical Area Buffer and on steep slopes, and to exceed lot coverage limits¹. In 2021, the property was impacted by a tornado, which damaged the dwelling and approximately 55 trees. The unpermitted improvements that are the subject of this variance request were constructed while the applicants were repairing the damage to existing structures and include an expanded gravel drive, pergola, gazebo, walkways, and detached decks. The 2.11-acre property is located within the Critical Area on land designated as Resource Conservation Area (RCA) and partially within the Buffer Modification Area (BMA). The site is nearly entirely encumbered by the Critical Area Buffer, which is expanded for steep slopes. Prior to the construction of the unpermitted improvements, the lot coverage on site totaled 12,722 square feet, and included two dwellings, decks, walkways, a driveway, riparian access, and associated improvements.

The allowable lot coverage for a property this size is 15% of the total site area or 13,785 square feet. With the unpermitted improvements, the site now exceeds lot coverage limits by 1,492 square feet and amounts to 16.6% of the total site area. The unpermitted improvements resulted in 3,352 square feet of permanent Buffer disturbance, including 969 square feet of disturbance to steep slopes and 481 square feet of developed woodland clearing. This office opposes the after-the-fact variance request to exceed lot coverage limits and disturb the Critical Area Buffer and steep slopes.

¹ Anne Arundel Code §17-8-402(b) Lots created before December 1, 1985 are subject to the lot coverage limits set forth in the following chart: for lots that are 36,301 square feet or greater, allowable lot coverage is 15% of the parcel.

Anne Arundel County Code §17-8-201(a) Development in the limited development area (LDA) or in the resource conservation area (RCA) may not occur within slopes of 15% or greater unless development will facilitate stabilization of the slope; is to allow connection to a public utility; or is to provide direct access to the shoreline. All disturbance shall be limited to the minimum necessary.

Variance Standards

Maryland's Critical Area law provides that variances to a local jurisdiction's Critical Area program may be granted only if the County's Administrative Hearing Officer (AHO) finds that an applicant has satisfied the burden to prove that the request meets each and every one of the variance standards under COMAR 27.01.12. Furthermore, State law establishes the presumption that a proposed activity for which a Critical Area variance is requested does not conform to the purpose and intent of the Critical Area law and County's Critical Area Program. The AHO must make an affirmative finding that the applicant has overcome this presumption, based on the competent and substantial evidence presented from the applicant. This office finds that the after-the-fact variance request fails to meet six of the seven standards, as described below.

1. *Due to special features of the site or special conditions or circumstances peculiar to the applicant's land or structure, a literal enforcement of the local Critical Area program would result in an unwarranted hardship to the applicant;*

Based on the information provided, denying this variance request would not result in an unwarranted hardship. State law defines "unwarranted hardship" to mean that, without the requested variance, an applicant shall be denied reasonable and significant use of the entire parcel or lot. The allowable lot coverage limit for a grandfathered lot of this size is 15% of the total lot area; the property was developed with two houses, a driveway, decks, walkways, and riparian access, which were all constructed within those allowable lot coverage limits. These existing structures already provided the applicant with reasonable and significant use of their lot as it offers two locations for habitation as well as outdoor amenity space. The unpermitted detached decks, walkways, expanded driveway, pergola, and gazebo that both exceed lot coverage limits and impact the Critical Area Buffer and steep slopes, therefore, do not meet the standard of unwarranted hardship, particularly here where the applicants had an ability to reconstruct within the allowable lot coverage limits.

Accordingly, if the request for the unpermitted improvements were to be denied, the applicant would **still** have reasonable and significant use of the entire lot or parcel.

2. *A literal interpretation of the local Critical Area program would deprive the applicant of a use of land or a structure permitted to others in accordance with the provisions of the local Critical Area program;*

Denial of this request would not deprive the applicant the use of the land or structure permitted to others in the Critical Area.

On the contrary, approving a variance to allow for the unpermitted non-water dependent improvements to remain within the Buffer and on steep slopes, while exceeding the lot coverage limits, is not a right commonly enjoyed by other, similar properties developed under the County's Critical Area program. No property owner has the right to construct non-water dependent improvements inside of the Buffer, on steep slopes, or to exceed lot coverage limits per the County's current Critical Area program.

3. *The granting of the variance would not confer upon the applicant any special privilege that would be denied by the local Critical Area program to other lands or structures in accordance with the provisions of any local Critical Area program;*

The granting of this variance would confer a special privilege upon the applicant. The Anne Arundel County Code and the Critical Area regulations place strict limits on lot coverage and disturbance to environmentally sensitive features including the Critical Area Buffer and steep slopes in order to meet the goals of the Critical Area law. Approval of this variance would grant the applicant a special privilege that would be denied to others within the Critical Area, as no individual is permitted to construct non-water dependent improvements in the Buffer and on steep slopes, and no applicant is allowed to exceed the lot coverage limits. This office has previously and consistently opposed similar variance requests from others; therefore, granting this applicant's request would absolutely confer upon the applicant a special privilege denied to others.

4. *The variance request is not based upon conditions or circumstances that are the result of actions by the applicant;*

The applicant constructed, without permits, multiple detached decks, a gazebo, a pergola, walkways, and expanded their driveway within the Buffer and on steep slopes, thus exceeding the allowed lot coverage limits – all without permits. The applicant already had reasonable and significant use of their lot with the outdoor amenities including decks and riparian access. The applicant had the ability to reconstruct the improvements on their property that were damaged by the tornado without further disturbance to the Critical Area Buffer and steep slopes and without exceeding lot coverage limits. In short, this request is based on actions from the applicant that resulted in a violation of the County's Critical Area program. Therefore, this request should be denied.

5. *The variance request does not arise from any conforming or nonconforming condition on any neighboring property;*

Based on the information provided, it appears that this variance request is not the result of any conforming or nonconforming condition on any neighboring property.

6. *The granting of the variance would not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction's local Critical Area; and*

This after-the-fact variance request does adversely affect water quality and impacts fish, wildlife, and plant habitat within the Critical Area. The Critical Area law and regulations are designed to foster more sensitive development for shoreline areas to minimize damage to water quality and habitat. The unpermitted improvements within the Buffer, on steep slopes, and with greater than 15% lot coverage, increases runoff and erosion capacity, which carries with it pollutants that will negatively impact the water quality of Church Creek, a tributary of the South River. The unpermitted improvements also reduce the riparian forest vegetation that is used by a multitude of species. The cumulative impact of development activity in the Critical Area has a substantial and negative impact on the Chesapeake Bay.

7. *The granting of the variance would be in harmony with the general spirit and intent of the Critical Area law, the regulations in this subtitle, and the local Critical Area program.*

Ms. Seay
Dolan Variance
November 17, 2025
Page 4 of 4

The granting of this after-the-fact variance request is not in harmony with the spirit and intent of the Critical Area law or Anne Arundel County's Critical Area program. Ecologically sensitive areas such as the Critical Area Buffer and steep slopes within the RCA are purposefully protected within the Critical Area regulations and the County's Critical Area program because of their importance in meeting the goals of the Critical Area law.

The goals of the Critical Area law include: (1) minimizing adverse impacts on water quality that result from development; (2) conserving fish, wildlife, and plant habitat; and (3) establishing land use policies that accommodate development while recognizing that development adversely affects the first two goals. The County's Critical Area program is specifically designed to balance these goals. Therefore, granting a variance to retain unpermitted non-water dependent improvements within the Buffer and on steep slopes and to exceed the lot coverage limits is not in harmony with the spirit and intent of the Critical Area law and would be contrary to the goals of the Critical Area law.

The activities subject to the after-the-fact variance run directly counter to the core purposes of the Critical Area Program. The law presumes that Buffer impacts are inconsistent with its intent unless proven otherwise by the applicant. No such evidence has been provided. Thus, granting the variance would undermine the entire enforcement framework, signaling that large-scale violations may be retroactively permitted.

Conclusion

In conclusion, after evaluating the information provided, Critical Area Commission staff reiterate that the requested variance fails to meet six of the seven Critical Area variance standards. The Buffer violation is severe, the impacts are long-standing, and the applicant has not met the substantive requirements for after-the-fact variance approval. Granting the requested variance would undermine the integrity of the Critical Area Program and erode decades of effort to protect the Chesapeake Bay.

Thank you for the opportunity to provide comments. Please include this letter of opposition in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions about these comments, please contact me at (410)-260-3462 or jamileh.soueidan@maryland.gov.

Sincerely,



Jamileh Soueidan
Natural Resource Planner

File: AA 0264-25
CC: Jen Esposito, CAC
Nick Kelly, CAC
Emily Vainieri, OAG

2025-0183-V

Menu Cancel Help

Task Details I and P Engineering

Assigned Date

09/19/2025

Assigned to

Natalie Norberg

Current Status

Complete w/ Comments

Action By

Natalie Norberg

Comments

1. Correctly label lot structures as either existing or proposed. The proposed improvements should be outlined in bold.
2. Show and label existing and proposed stormwater management (SWM) devices. Provide required setbacks from septic, dry wells, wells, and structures. In addition, SWM devices cannot be installed within buffers.

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

10/09/2025

Assigned to Department

Engineering

Status Date

09/30/2025

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

Natalie Norberg

Reviewer Phone Number

Reviewer Email

ipnorb81@aacounty.org

2025-0183-V

Menu Cancel Help

Task Details OPZ Cultural Resources

Assigned Date

09/18/2025

Assigned to

Stacy Poulos

Current Status

Complete w/ Comments

Action By

Stacy Poulos

Comments

A portion of this property is located within the confines of an archaeological site recorded in the State database (18AN430), late 18th-19th. The variance addresses existing conditions and presents no new additional disturbance. Please note that development applications for this property are subject to review per Article 17-6-502. Any additional proposed new disturbance would require review by the Cultural Resources Section.

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

10/09/2025

Assigned to Departm

OPZ Cultural Resou

Status Date

09/24/2025

Overtime

No

Start Time

Hours Spent

0.0

Action by Departm

OPZ Cultural Resou

Est. Completion D

Display E-mail

Display Comm

Task Specific Information

Expiration Date

Reviewer Phone Number

Review Notes

Reviewer Email

Reviewer Name

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

ADMINISTRATIVE DECISION

Diana Josephson & Kinsey Potter
816 and 818 Bywater Road
Annapolis, MD 21403

ASSESSMENT DISTRICT: Second
NC NUMBER: 1999-0306-N
PREMISE: 816 Bywater Road
Annapolis, MD 21401

This Administrative Decision is the direct result of an application by Diana Josephson and Kinsey Potter to register two principal dwellings on one property located at 816 Bywater Road, Annapolis, MD as a nonconforming use pursuant to Article 28, "Zoning" Section 14-103 of the Anne Arundel County Code. Such registration is a prerequisite to obtaining a Zoning Certificate of Use, as required by Article 28, Section 1-128, and for applying for a Special Exception to expand a nonconforming use under the provisions of Article 28, Section 12-220.

The administrative process in this case was undertaken in accordance with the provisions of Article 28, Section 14-103, which charges the Department of Planning and Code Enforcement with the responsibility of determining the lawful nonconforming status of each applicant's operation. This has resulted in the compilation of documents, maps, photographs and other material supplied to or collected by this Office. The material supports the following findings of fact:

The subject site consists of 2.08 acres, more or less. It is located 20 feet on the west side of Woods Road, approximately 1500 feet west of Bywater Road, in the subdivision of Bywater Estates. The property is also identified as Parcel 169 in Block 21 on Tax Map 51. The site is further described in a deed recorded in the Anne Arundel County Land Records at Liber 7875 Folio 334. It has been zoned R1, Residential since the adoption of comprehensive rezoning for the Second Assessment District on February 13, 1989.

The site is currently developed with two residential dwelling structures on one property. These structures are shown on a site plan prepared by Survey Associates, Inc. dated July 2, 1992. The information contained on the site plan includes:

Nonconforming Dwelling

A two story irregularly shaped dwelling with three car garage measuring 33' x 25'; 16' x 26.5' comprising of 2,498 sq.ft. of floor area used as a residence.

Conforming Dwelling

A two and one half story irregularly shaped dwelling with a combination of rectangles measuring 37' x 24'; 33' x 16'; 21' x 9'; 8' x 15'; 7' x 10'; 6' x 3' comprising of 3,662 sq.ft. of floor area used as a residence.

A wood pier measuring 5' x 66' comprising of 1,050 sq.ft. of water area used for recreation. The pier

is a joint use by both dwellings.

In order to qualify as lawfully nonconforming, each use of the subject property must satisfy the provisions of Article 28, Title 14 of the 1971 Zoning Ordinance as recodified in 1985, and, if appropriate, Sections 13-310 and 13-311 of the 1952 Zoning Ordinance. The 1952 Code required that a lawful nonconforming use had to predate the Ordinance, and could not be abandoned for longer than 12 consecutive months. Article 28, Title 14 of the 1971 Zoning Ordinance requires that in order for a nonconforming use to be lawful, such use shall have been lawful under the 1952 Code, and that a nonconforming use lapses if it ceases for a period of time longer than 12 consecutive months. Therefore, in this case, the Administrative Decision shall determine whether a lawful nonconforming use existed at the time of adoption of the 1952 Ordinance or whether a lawful nonconforming use existed at the time of adoption of the 1971 Ordinance, the extent of the legal use and whether said use has been continuous and without interruption for more than 12 months.

ZONING HISTORY

At the time of adoption of the 1952 Zoning Ordinance, the subject property was zoned A, Agricultural. Section 13-337.1 of the 1952 Ordinance did not permit two principal structures on one property as a permitted use. However, second principal structures on a property could be authorized under Section 13.321 - rear dwellings regulated, allowing an additional principal dwelling on a lot conforming to the zoning setback requirements for the district in which it is located. In this case, the location of the subject property does meet the agricultural district setback requirements of 40 feet front yards, 25 feet side yards, and 30 feet rear yards.

As a result of comprehensive zoning for the Second Assessment District, the subject property was reclassified to R2, Residential effective June 1, 1972. Under Section 13-305 of the 1971 Zoning Ordinance, two principal structures on one property were not permitted by right.

The most recent comprehensive zoning for the Second Assessment District, effective February 13, 1989, down-zoned the subject property as R1, Residential. Under Section 2-302 of the current Ordinance, the requirements remained unchanged disallowing two structures on one lot.

Therefore, the applicant must prove that two principal structures on one property has existed since prior to June 1, 1972 and that the residential use has been continuous to date.

EVIDENCE

The following evidence was submitted by the applicant or collected by this Office to substantiate the continued use of the subject property:

1. A copy of deed (Liber 7875, Folio 334) conveying ownership of the property to Diana H. Josephson and Kinsey B. Potter dated April 18, 1997. Additional copies of deeds were attached to corroborate with affidavits submitted. Deed (Liber 584, Folio 466) dated July 19, 1950 conveyed property to Fred & Mary Louise Gerretson; deed (Liber 3530, Folio 711) dated October 29, 1982 conveyed property to Norman Deitch and Patricia Diane O'Connell; deed (Liber 4059, Folio 192) dated April 14, 1986 granted a portion of Lot 2 to Ms. Diane O'Connell Deitch.
2. Aerial photographs for the years 1962, 1970, 1984, 1995 all revealed two large structures and a pier. The 1952 photo is not clear and only showed a portion of the site.
3. Invoice from Eastern Petroleum Corporation dated August 28, 1997, for dyed fuel oil shipped to 818 Bywater Road.
4. BGE billing statement dated June 3, 1997 and August 2, 1999 for electrical service provided to 816 Bywater Road.
5. B&B Air Conditioning and Heating Service Co. invoice dated March 19, 1997 for 816 and 818 Bywater Road.
6. Field Book of Assessment records for the year 1952 list a dwelling on subject property. During the year 1956, an addition to dwelling was assessed under Permit #3544-55. Additional records for the years 1982 through 1995 list both structures, dimensions and improvements. On 5/14/81; 5/11/84; 11/28/89 owner interviewed. The nonconforming dwelling was built in 1962.
7. Letter dated June 3, 1999 from Crownsville Hospital Center stating that Sinclair A. Burlingham's last known address was 818 Bywater Farms Road until his death on July 20, 1987.
8. Maryland Property Valuation Record dated December 16, 1997 list both structures and their current land and property value.
9. Affidavit from Janice Wheeler dated July 3, 1999 attesting that she met Atherton Burlingham in 1965, and since that time until 1969, he resided at 818 Bywater Road in the house rented to him by the Gerretsons.
10. Affidavit from Mary Louise & Fred W. Gerretson, previous owners of Bywater Estates from 1950 through 1982. In 1950, a small living area at a point overlooking the water was

constructed and used on the weekends as shelter. In July, 1955, the living area was expanded for three children with a valid permit. In 1963, construction began with a permit for a three car garage with an apartment above for Mrs. Gerretson's parents until the death of her stepfather. Shortly after, the apartment was rented to Atherton Burlingham known as "Bish". Bish worked as a social worker for Crownsville Hospital Center and lived in the apartment for the remainder of the Gerretson's ownership of subject property. In 1970 a permit was applied for the expansion of the apartment adding a living room, master bedroom, and second bathroom. On October 29, 1982, the property was sold to Norman Deitch and "Bish" stayed on as a tenant until his death in 1987.

11. Affidavit from Richard Hutzell dated July 8, 1999 who stated that he and his wife rented 818 Bywater Road in August, 1992 until September, 1995.
12. Affidavit from Norman Deitch dated July 7, 1999, attesting that he and Patricia Diane O'Connell purchased subject property on October 29, 1982. At that time, there were two houses on Lot 2 known as 816 & 818 Bywater Road. A tenant by the name of "Bish" resided in 818 Bywater Road and had been living there since the early 1960's until his death in 1987. From a point in time during 1988 until 1992, Mr. Deitch's daughter and her family lived at subject property. A share of the property was sold to Diane O'Connell Deitch on April 14, 1986. The Deitch's resided at subject property and rented 816 Bywater Road until 1992. In October, 1993, after a separation, Mr. Deitch moved back into 816 Bywater Road in March, 1994 and resided until December 1995. The subject property was rented from 1992 until it was purchased by Diana Josephson and Kincey Potter in 1997.

FINDINGS

Based on the evidence as submitted herein, it is obvious that the subject facilities preexisted the June 1, 1972 date of the second comprehensive zoning at which point the ability to have a rear dwelling regulated ceased. Thus the facility became nonconforming and that the use of the facilities has been continuous to date. The evidence revealed that the nonconforming structure has been used as residence from 1962 until the present. The deeds and tax records are consistent with the affidavits and indicated that two principal dwelling structures on one property have existed since prior to July 1, 1952 and that they have been used as residential dwellings continuously to the present date.

It is, therefore, the decision of the Department of Planning and Code Enforcement that a lawful nonconforming use does exist on the subject site, and the extent of that use is as follows:

Nonconforming Dwelling

A two story irregularly shaped dwelling with three car garage measuring 33' x 25'; 16' x 26.5'

comprising of 2,498 sq.ft. of floor area used as a residence.

Conforming Dwelling

A two and one half story irregularly shaped dwelling with a combination of rectangles measuring 37' x 24'; 33' x 16'; 21' x 9'; 8' x 15'; 7' x 10'; 6' x 3' comprising of 3,662 sq.ft. of floor area used as a residence.

A wood pier measuring 5' x 66' comprising of 1,050 sq.ft. of water area used for recreation. The pier is a joint use by both dwellings.

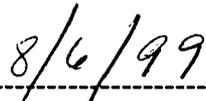
Article 28, Section 14-103 requires the Department of Planning and Code Enforcement to classify the overall nonconforming use of the property according to the zoning district in which that use would be permitted. It is, therefore, the decision of this Office that the nonconforming use of the subject property is hereby classified as an R1 Residential type nonconforming use.

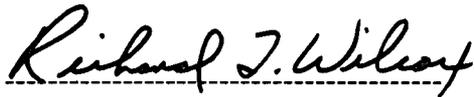
This Administrative Decision shall be binding unless appealed to the Anne Arundel County Board of Appeals within thirty (30) days, as provided by Article 3, Section 1-103 (Appendix B, Rules of the Board of Appeals, Rule 5) of the Anne Arundel County Code (1985).

All uses of the subject site not specifically permitted by this decision must conform to the requirements set forth in the Anne Arundel County Zoning Ordinance for an R1, Residential District.



Lori Rhodes, Planning Technician
Department of Planning and Code Enforcement

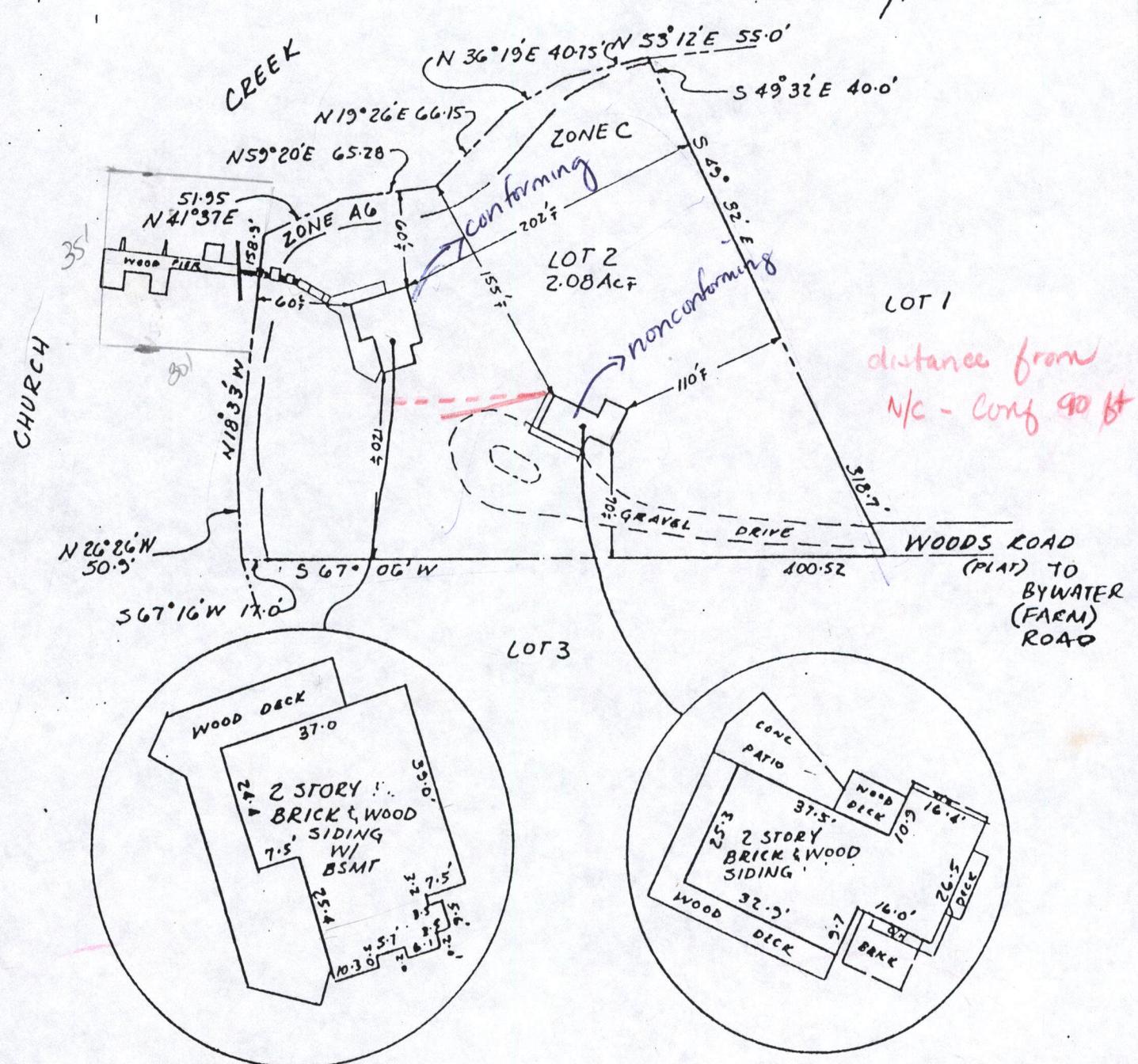

Date



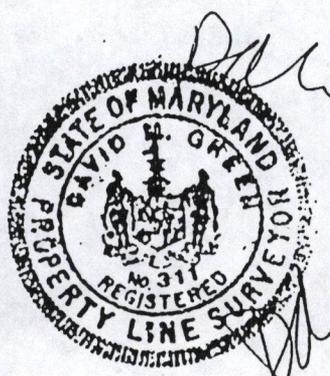
Richard T. Wilcox
Interim Director
Department of Planning and Code Enforcement


Date

FLOOD ZONE: A6 etc as shown on FEMA Panel No: 240008 0030C
 Fences are approximate only, and may not be shown.
 Condominium/Townhouse locations assume that plats, deeds are calling for division walls (as-built) as boundaries of lots. Unless otherwise shown, no property pipes were found at this site. This is a recertification of a survey by others.



NOTE: LOCATION IS APPROXIMATE. NO PIPES FOUND
 NOTE: This is an improvements location survey only, and cannot be relied upon as a Boundary Survey etc. No Title Report furnished. No statement made by this plat as to ownership of any property or right or interest therein. Information may have been supplied by others to produce this drawing; no responsibility whatsoever is accepted for the accuracy of such information. In case of doubt, we recommend a Boundary Survey.



DAVID M GREEN, Prop LS 311 MD
 Subdiv PLAT BK: 12...PAGE: 24..

SURVEY ASSOCIATES OF MARYLAND INC		(301) 266 7211	
108 OLD SOLOMONS ISLAND RD, SUITE 100, ANNAPOLIS MD 21401. Fax (301) 266 0918			
SCALE: 1"=100'	APPROVED BY:	DRAWN BY W.M.C.D	
DATE: 2 JULY 1992		REVISED	
IMPROVEMENTS LOCATION: RECERT 816 BYWATER FARM RD.			
LOT 2 BYWATER ESTATES			
2ND DISTRICT, ANNE ARUNDEL COUNTY, MD			
DRAWING NUMBER		A592016-103	

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBERS 2000-0115-S AND 2000-0116-V

IN RE: KINCEY POTTER

SECOND ASSESSMENT DISTRICT

DATE HEARD: MAY 25, 2000

ORDERED BY: STEPHEN M. LeGENDRE, ADMINISTRATIVE HEARING OFFICER

ZONING ANALYST: SUZANNE DIFFENDERFER

DATE FILED: JUNE 15th, 2000

PLEADINGS

Kincey Potter, the applicant, seeks a special exception (2000-0115-S) to permit the expansion of a nonconforming use and a variance (2000-0116-V) to permit dwelling additions and a septic system with disturbance to steep slopes in the expanded buffer on property located along the west side of Woods Road, west of Bywater Road, Annapolis.

PUBLIC NOTIFICATION

The case was advertised 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 175' of the property was notified by mail, sent to the address furnished with the application. Michael Drum, the applicant's engineer, testified that the property was posted with four signs for 14 days prior to the hearing. I find and conclude that the requirements of public notice have been satisfied.

FINDINGS AND CONCLUSIONS

The applicant owns two dwellings with street addresses of 816 and 818 Bywater Road, in the subdivision of Bywater Estates, Annapolis. The property comprises 2.08 acres and is zoned R-1 residential with a Chesapeake Bay Critical Area designation as Resource Conservation Area (RCA). The property is recognized as lawfully nonconforming by virtue of Administrative Decision 1999-

0306-N (August 4, 1999). The applicant seeks to expand the nonconforming dwelling (818 Bywater Road). The construction will occur on steep slopes in the expanded buffer.

The expansion of a nonconforming use is a special exception use subject to the specific criteria in Anne Arundel County Code, Article 28, Section 12-220 and the general criteria in Section 12-104. Section 1A-104(a) establishes a minimum 100-foot buffer from mean high-water of tidal waters. The buffer expands to include all lands within 50 feet of the top of contiguous steep slopes. Section 1A-105(c) prohibits development of slopes 15 percent or greater in the RCA. Accordingly, in addition to the special exception, the proposal necessitates a variance to disturb steep slopes within the expanded buffer.

Suzanne Diffenderfer, a zoning analyst with the Department of Planning and Code Enforcement, testified that the proposal satisfies the specific special exception criteria. The applicant is requesting 612 square feet of new floor area, which equates to 25 percent of the existing floor area (2,498 square feet). The proposal satisfies the R-1 zoning standards with the additions over impervious areas. The witness observed that the Critical Area variance is necessary for any development on the property. The septic system is being placed in the only area outside the 100-foot buffer that passed percolation testing. There were no adverse agency comments. The Chesapeake Bay Critical Area Commission requested slope stabilization and mitigation in accordance with the County zoning ordinance. Accordingly, Ms. Diffenderfer supported the requests.

Ms. Potter testified that she purchased the property in 1997. She subsequently learned that she needed to register as a nonconforming use to obtain a zoning certificate of use and to apply for a special exception for the relatively minor expansion. The need for a new septic system and the constraints imposed by steep slopes were further complications.

Mr. Drum confirmed the testimony of both witnesses and stated that the proposal satisfies the specific and general criteria for the special exception as well as the Critical Area variance standards. There was no adverse testimony concerning the request.

Upon review of the facts and circumstances, I find and conclude that the applicant has met her burden of proof such that the special exception and variance shall be approved. The application satisfies the specific criteria and the general criteria for the special exception. In view of the extent of the expanded buffer, a strict implementation of the Critical Area criteria would result in an unwarranted hardship to the applicant. To literally apply the criteria will deprive her of the right to expand the dwelling, a right typically enjoyed by other properties in similar areas within the Critical Area. Conversely, the granting of the variance will not confer any special privilege that the program typically denies. There was nothing to suggest that the request results from the actions of the applicant; nor does it arise from land use on neighboring property. Finally, with appropriate conditions, the granting of the variance will be in harmony with the general spirit and intent of the program and will have no adverse impact on Critical Area

resources. I further find that the variance is the minimum necessary to afford relief. There was nothing to suggest that the granting of the variance will alter the essential character of the neighborhood, substantially impair the appropriate use or development of adjacent property, or be detrimental to the public welfare. The approval shall be subject to the condition in the Order.

ORDER

PURSUANT to the application of Kincey Potter, petitioning for a special exception to permit the expansion of a nonconforming use and a variance to permit dwelling additions and a septic system with disturbance to steep slopes; and

PURSUANT to the advertising, posting of the property, and public hearing and in accordance with the provisions of law, it is this 15th day of June, 2000,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicant is hereby **granted** a special exception to permit the expansion of a nonconforming use in accordance with the site plan.

FURTHER ORDERED, that the applicant is hereby **granted** a variance to permit dwelling additions and a septic system with disturbance to steep slopes in the expanded buffer.

The special exception and variance are subject to the condition that the applicant shall stabilize the steep slopes during and after construction to the satisfaction of PACE and shall provide reforestation in accordance with the

County zoning ordinance.


Stephen M. LeGendre
Administrative Hearing Officer

NOTICE TO APPLICANT

Within thirty (30) days from the date of this Decision, any person, firm, corporation, or governmental agency having an interest therein and aggrieved thereby may file a Notice of Appeal with the County Board of Appeals.

Further, Section 12-107(a) states:

Approval of a special exception is rescinded by operation of law if

- (1) action to implement the use is not begun within one year; and
- (2) the use is not completed and in operation within two years.

Further, Section 11-102.2 of the Anne Arundel County Code states:

A variance granted under the provisions of this Article shall become void unless a building permit conforming to the plans for which the variance was granted is obtained within one year of the grant and construction is completed within two years of the grant.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this order, otherwise they will be discarded.

**FINDINGS AND RECOMMENDATION
DEPARTMENT OF PLANNING AND CODE ENFORCEMENT
ANNE ARUNDEL COUNTY, MARYLAND**

APPLICANT: Kincey B. Potter

ASSESSMENT DISTRICT: Second

CASE NUMBERS: 2000-115S & 116V

COUNCILMANIC DISTRICT: Sixth

HEARING DATE: May 25, 2000

**PREPARED BY: Suzanne Diffenderfer
Planner**

REQUEST

The applicants are seeking a special exception to permit the expansion of a nonconforming use. Concurrently, the applicant seeks a variance to permit the dwelling additions and a septic system with disturbance to steep slopes in the Expanded Buffer. The Critical Area classification of the subject property is RCA.

LOCATION AND DESCRIPTION OF SITE

The subject property consists of 2.08 acres. It is located in the Bywater Estates subdivision in Annapolis. It is shown on Tax Map 51, Block 21 and Parcel 169. The subject property is a waterfront lot developed with two principal dwelling structures.

The current R1-Residential classification of the site was received as a result of the comprehensive zoning for the Second Assessment District, effective February 13, 1989.

APPLICANT'S PROPOSAL

Should the requests be granted, the applicants seek to expand the second (nonconforming) dwelling with the construction of three small room additions and a new septic system.

SPECIAL EXCEPTION STANDARDS

The specific criteria for expansion of nonconforming uses are set forth under Section 12-220 of the Zoning Ordinance. All special exceptions are subject to the general standards of Section 12-104 of the Ordinance.

REQUESTED VARIANCE

Section 11-102.1 of the Anne Arundel County Zoning Ordinance sets forth the standards for the granting of a variance.

Section 1A-104 of the Anne Arundel County Zoning Ordinance requires a minimum 100 foot

buffer landward from the mean high water line of tidal waters, tributary streams and tidal wetlands. The buffer is expanded beyond 100 feet to include contiguous, sensitive areas such as steep slopes.

Section 1A-105 (c) prohibits development of slopes 15% or greater in the LDA & RCA areas unless the project is the only effective way to maintain or improve the stability of the slope.

The structure expansion and septic system requires disturbance to steep slopes in the expanded buffer. As such, a variance is requested to permit disturbance to the steep slopes within the expanded buffer.

FINDINGS

The Department of Planning and Code Enforcement has reviewed the proposal under the **specific** special exception standards and has found the project capable of complying with those standards.

The subject property was recognized as a lawful nonconforming use by Administrative Decision 1999-0306-N on August 4, 1999. The decision recognized two principal dwelling structures on one lot. The proposed expansion amounts to 25% or an additional 612 sq.ft. of new floor area. The existing dwelling has 2,498 sq.ft. of floor area. The Code permits a maximum of 30% expansion. The existing and proposed facilities satisfy the minimum zoning requirements as stated in Section 12-220 for the R1 District. In addition, the additions to the dwelling will be placed over existing impervious area.

Relative to the variance request, the variance requested is a critical area variance not a variance asking for relief from conditional requirements. A variance is necessary for any development on this property, whether it be the nonconforming dwelling or the principal dwelling.

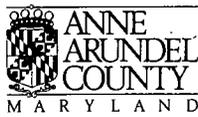
Two septic areas exist on the subject property. New septic trenches are necessary for the nonconforming dwelling. The location proposed is the only location outside the 100 ft. Buffer that perc's.

Agency comments were of no objection. The Critical Area Commission has no objection due to the constraints imposed by the steep slopes. They request care be taken to ensure slope stability during and after construction of the trenches and reforestation provided in accordance with the County Code.

Due to the features of the site, strict implementation of the County's critical area program would result in an unwarranted hardship for the applicant to develop the site. The grant of the variance will not adversely affect water quality or impact fish, wildlife or plant habitat.

Accordingly, the Dept. of PACE would offer no objection to the special exception and variance requests.

CASE # 2000-0116-V
FEE PAID 150.00
DATE 3/21/00



ZONE R1 ALEX 20D13
200 MAP 426 1000 MAP _____
CRITICAL AREA:
IDA ___ LDA ___ RCA X

VARIANCE APPLICATION

2 signs
Applicant: Kincey Potter
(All persons having 10% or more interest in property)

Property Address: 818 Bywater Road Annapolis, MD 21401

Property Location: 20 feet of frontage on the (n, s, e, W) side of
Woods Road street, road, lane, etc.; 1500 feet
(n, s, e, W) of Bywater street, road, lane, etc. (nearest intersecting street).

Tax Account Number 2-145-04271000 Tax District 2nd Council District 6

Waterfront Lot Yes Corner Lot No Deed Title Reference 7875/334

Zoning of Property R1 Lot # 2 Tax Map 51 Block 21 Parcel 169

Area (sq. ft. or acres) 2.08 ac. Subdivision Name Bywater Estates

variance to permit a dwelling addition and septic system with
Description of Proposed Variance Requested (Explain in sufficient detail including distances from property lines, heights of structures, size of structures, use, etc.)
A variance to Article 28, Section 1A-105mis requested.

disturbance to steep slopes and buffers not required.
The variance is necessary to allow disturbance of steep slopes & buffers. The steep slopes are not contiguous to tidal waters.
The applicant hereby certifies that he or she has a financial, contractual, or proprietary interest equal to or in excess of 10 percent of 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.

Kincey B Potter
Applicant's Signature

Kincey B Potter
Owner's Signature

Kincey B. Potter
Print Name

Print Name

818 Bywater Road
Street Number, Street, PO Box

Street Number, Street, PO Box

Annapolis, MD 21401
City, State, Zip

City, State, Zip

(410) 280-6254
Home Phone Work Phone

Home Phone Work Phone

For Office Use Only

Application accepted by Anne Arundel County, Office of Planning and Zoning

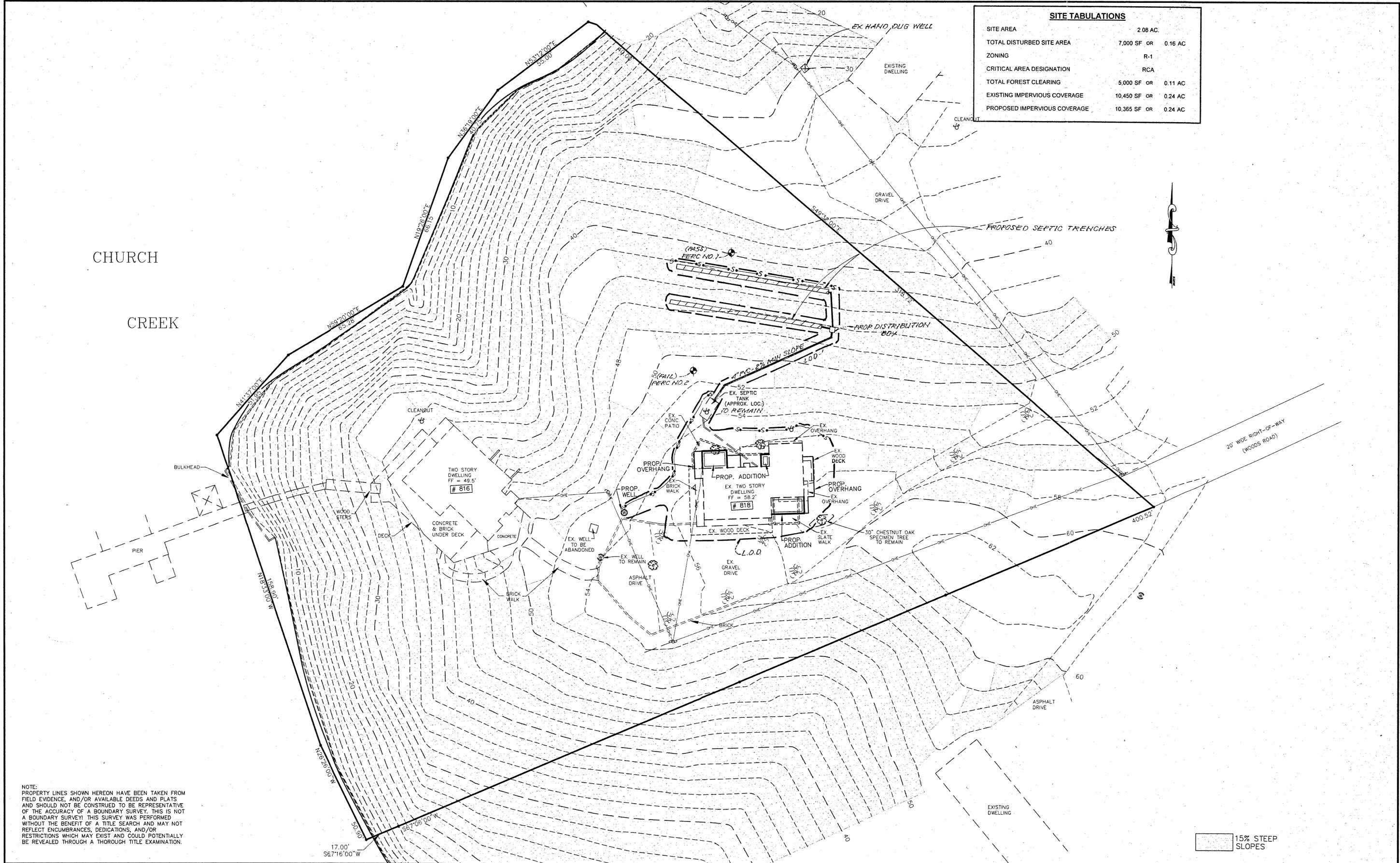


Steph Duffin
Signature

3/21/00
Date

MAR 20 2000

SITE TABULATIONS	
SITE AREA	2.08 AC.
TOTAL DISTURBED SITE AREA	7,000 SF OR 0.16 AC
ZONING	R-1
CRITICAL AREA DESIGNATION	RCA
TOTAL FOREST CLEARING	5,000 SF OR 0.11 AC
EXISTING IMPERVIOUS COVERAGE	10,450 SF OR 0.24 AC
PROPOSED IMPERVIOUS COVERAGE	10,365 SF OR 0.24 AC



NOTE:
PROPERTY LINES SHOWN HEREON HAVE BEEN TAKEN FROM FIELD EVIDENCE, AND/OR AVAILABLE DEEDS AND PLATS AND SHOULD NOT BE CONSTRUED TO BE REPRESENTATIVE OF THE ACCURACY OF A BOUNDARY SURVEY. THIS IS NOT A BOUNDARY SURVEY! THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE SEARCH AND MAY NOT REFLECT ENCUMBRANCES, DEDICATIONS, AND/OR RESTRICTIONS WHICH MAY EXIST AND COULD POTENTIALLY BE REVEALED THROUGH A THOROUGH TITLE EXAMINATION.

15% STEEP SLOPES

DESIGNED BY: DCC		DATE: 2/00		REVISIONS	
DATE	BY	DESCRIPTION			

DRUM, SNELL & ASSOCIATES, LC
CIVIL ENGINEERS - LAND SURVEYORS
 209 WEST STREET, SUITE 203
 ANNAPOLIS, MARYLAND 21401
 410-280-3122

OWNER/DEVELOPER
KINCEY B. POTTER
 818 BYWATER ROAD
 ANNAPOLIS, MARYLAND 21401

SITE PLAN
BYWATER ESTATES, LOT 2
 818 BYWATER ROAD
 TAX ACCOUNT NO. 02-145-04271000
 TAX MAP 51 GRID 21 PARCEL 169 DISTRICT 2
 ANNE ARUNDEL COUNTY, MARYLAND

SCALE: 1" = 20' DATE: MARCH 2000 FILE NO. BP-01100 SHEET 1 OF 1