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VARIANCE STAFF REPORT

To: Queen Anne's County Board of Appeals
From: Robert Owen, Zoning Inspector
Hearing Date: September 17, 2025
File Number: BOA-25-06-0222
File Name: Timothy J. Nagy and Jacqueline Nagy
Permit Number: Building Permit BR25-05-0406
OWNER/DEVELOPER: Timothy & Jacqueline Nagy
100 Skyler Ave
Chester, MD 21619

GENERAL INFORMATION:

Location: Map 57 - Parcel 111 - Lot 3
Address: 100 Skyler Ave., Chester
Parcel Size: 0.75 acres (32,887 square feet)
Zoning District: Neighborhood Conservation (NC-15)
Critical Area: Limited Development Area (LDA)
Election District: Fourth

PROPOSAL AND REQUESTED ACTION:

The applicant is proposing to construct a deck attached to the rear of the single family dwelling (SFD) on this property located in the Neighborhood Conservation – 15 Zoning District (NC-15).

The applicant is seeking a variance from §18:1-19E(1)(c)[4][e][iii] to reduce the required 50-foot rear yard setback to 22 feet.

FACTS AND FINDINGS

EXISTING CONDITIONS:

- Lot 3 is a 0.75 ac. lot located directly southeast of the intersection of Brown Road and Skyler Ave.
- The lot measures 32' in width on Skyler Avenue at the setback line and 242' width for the rear of lot.
- Lot 3 contains a single-family dwelling, inground concrete pool, detached shed, and gazebo with attached deck.
- The lot is located within the Stevensville/Chester Growth Area.
- Lot 3 is served by public sewer and a private well.

BACKGROUND INFORMATION:

- The subject lot was created in 1990 by Robinson L. Brown.
- Historic zoning at time of creation was NC-8 (current zoning is NC-15).

- Zoning designation for Lot 3 changed in the 2004 from Neighborhood Conservtion-8 to Neighborhood Conservation – 15 (NC-15) resulting in a change to the rear yard setback from 35’ to 50’.

NATURAL RESOURCES:

- The entire property is located in the Limited Development Area (LDA) of the Critical Area.
- The lot is not located within the floodplain.
- While there is an area of nontidal wetlands mapped onsite, neither the 1990 subdivision plat nor the current site plan indicate the presence of a wetland onsite.

APPLICABLE LAWS:

Queen Anne’s County Code of Public Laws – Zoning and Subdivision Regulations

§ 18:1: 19 Neighborhood Conservation (NC) District

E. Dimensional and bulk requirements.

(1) Residential uses.

(c) Minimum setbacks.

[4] Large lot.

[e] NC-15.

[i] Front: 35 feet

[ii] Side: 18 feet

[iii] Rear: 50 feet

§ 18:1: 19 Neighborhood Conservation (NC) District

E. Dimensional and bulk requirements.

(1) Residential uses.

(e) Minimum lot width.

[4] Large-lot subdivision:

[f] NC-15: 70 feet.

§ 18:1-114 Board of Appeals.

Establishment. The Board of Appeals of Queen Anne's County is hereby established.

Powers. The Board shall have the powers and duties provided in Article 66B [Land Use Article] of the Annotated Code of Maryland and in this Chapter 18:1.

§ 18:1-115 Powers of Board.

A. In general. Subject to the provisions of this article, the Board shall have the following powers with respect to matters arising under Article 66B [Land Use Article] of the Annotated Code of Maryland or this Chapter 18:1:

(1) The power to hear and decide appeals where it is alleged that:

There is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of Article 66B [Land Use Article] of the Annotated Code of Maryland or this Chapter 18:1; or

There is no error in the order, requirement, decision, or determination, but a variance from the literal enforcement of this Chapter 18:1 should be authorized in accordance with the provisions of this article; and

(2) The power to hear and decide applications for conditional uses, as provided in this Part 7.

§ 18:1-121 Limitations with respect to variance.

A. In general. The Board shall grant a variance only with respect to matters involving the modification of the density, bulk, or area requirements of this Chapter 18:1, or of the requirement set forth in §18:1-95B of this

Chapter 18:1. No variance is required where a proposed modification will not cause an existing violation to increase.

B. Circumstances. A variance may not be granted unless the Board specifically finds that:

- (1) Literal enforcement of this Chapter 18:1 would result in unnecessary hardship or practical difficulty as the result of specified conditions;
- (2) Those conditions are peculiar to the property involved;
- (3) Those conditions are not the result of any action taken by the appellant;
- (4) The variance will not be contrary to the public interest; and
- (5) Evaluation of alternatives proves variance is required.

C. Considerations. Among all other factors that must be considered with respect to the requirements of this section, the Board shall consider:

- (1) The ability to use the property for any reasonable purpose, whether or not such purpose is desired by the appellant, in the absence of the proposed variance;
- (2) The degree to which the proposed variance will affect adjacent property;
- (3) The impact of the proposed variance upon the resource protection provisions of Part 4, Article IX, of this Chapter 18:1; and
- (4) The degree to which the situation might be more properly addressed by amending this Chapter 18:1.

Queen Anne's County Critical Area Program

§ 14:1-38 Development standards in limited development areas.

D. Site performance standards.

(8) Lot Coverage [Impervious surfaces] shall be limited to 15% of the gross site area proposed for development, except as follows:

- (c) If a parcel or lot greater than 8,000 square feet, but less than or equal to 21,780 square feet, was a lot of record on or before December 1, 1985, then man-made impervious surfaces on the lot are limited to 31.25% of the parcel or lot, provided the requirements of § 14:1-38D(8)(b)[1], [2] and [3] are met.

Queen Anne's County Comprehensive Plan

Chapter 4: Land Use (page 4-15)

INFILL DEVELOPMENT - Infill development strategies support the goal to direct growth to Growth Areas where public investment has been made for infrastructure and where limited sewer capacity may still exist...Infill development is development that takes place on vacant, undeveloped or underutilized parcels within an area that is already characterized by development, such as Growth Areas.

CONCLUSION:

Lot 3 was created as part of a minor subdivision in 1990. The property was subject to an administrative zoning change in 2004 from NC-8 to NC-15. The house is 37 feet from the rear property line which was permitted under the NC-8 Zoning District standards. Therefore, the SFD is a legal non-conforming structure.

In accordance with the NC-15 Zoning regulations, the required rear setback of 50 feet presents a significant challenge for the construction of a deck on a house that was built in the original NC-8 standards. The applicant seeks a variance of 28 feet to reduce the rear setback requirement from 50 feet to 22 feet in order to construct a rear deck.

RECOMMENDATION:

For reasons stated above, Zoning staff has no objection to the approval of this variance. The applicant must present clear evidence of the practical difficulty to the Board of Appeals.