

**CHESAPEAKE BAY ORDINANCE REVIEW COMMITTEE
STAFF REPORT
Hearing Date: May 26, 2022 at 7pm**

Date: May 5, 2022

SUBJECT: Chesapeake Bay Preservation Ordinance Exception Request – 125 S
Aberdeen St

STAFF RECOMMENDATION: Approve exception request.

The proposed single-family project will create a new Resource Protection Area (RPA) encroachment. It is similar in terms of scope and water quality impact to projects previously approved by CBORC. The project will not require the removal of trees and there are no trees proposed for removal in the RPA and the project does not alter existing stream valley topography. Tree planting is proposed as a mitigation measure in association with this application. The new RPA encroachment consists of a proposed balcony, overhang and deck.

BACKGROUND: The RPA on the property is in the rear of the home and slopes down in the rear with a walkout basement outside the RPA. The RPA area is mostly a steep sparsely forested area near the stream. The existing house does not encroach into the RPA. The existing home was built 1940.

The proposed plan is for construction of a two story which will encroach into the RPA and therefore, the project requires Chesapeake Bay Ordinance Review Committee (CBORC) review. The portion of the residential addition that will encroach into the RPA is a deck, and a balcony, and overhang from the second story addition.

SUMMARY OF EXCEPTION REQUEST: On May 5, 2022 pursuant to Section 61-16.A of the Chesapeake Bay Preservation Ordinance ("Ordinance"), Christine A Kelly, filed an exception request (Attachment 1 and 2) on behalf of the property owners, Levon Bagramian and Inesa Mkhitarian, to create a new encroachment within the RPA for stream channel in the Arlington Forest Branch watershed that flows into Four Mile Run.

As required by the Ordinance, written notice of the exception request and hearing date has been sent to the parties required to be notified by the Ordinance.

WATER QUALITY IMPACT ASSESSMENT:

- The existing single-family home does not encroach into the RPA. There are two sheds in the RPA that have a footprint of 180 square feet.
- There is a 5' retaining wall on the rear of the property in the RPA.
- The proposed deck will be built in the rear area on the steep slope. It will be constructed of pervious material. It will not increase impervious cover
- The overhang will add 157 square foot of impervious cover in the RPA
- The new RPA encroachment consists of a proposed balcony, overhang and deck into the RPA. The basement does not encroach into the RPA.
- The RPA on the property is currently mostly sparsely forested
- There is no tree removal proposed in the RPA
- Overall, the project increases impervious cover by 157 sq. ft in the RPA and the new deck will encroach 20 feet further towards the RPA feature. Total area of land disturbed by the proposed project is 2112 sq ft. The proposed deck is 913 sq ft.
- There is no floodplain on the property.
- The overhang and balcony are being permitted now. The deck will be built at a later date after the home addition.

Mitigation Proposed

- Five native trees are proposed to be planted in the RPA

REQUIRED FINDINGS: Section 61-16.C of the Ordinance specifies the required findings that must be made prior to granting an exception. This section summarizes these findings and staff's analysis of each finding for this case.

Finding 1. The requested exception to the criteria is the minimum necessary to afford relief. This standard evaluates whether alternative location, footprint, and/or orientation options are available to reduce or avoid the need for the encroachment into the RPA.

Staff analysis:

Staff believes that the 'minimum necessary' criterion is met by this proposal for the following reasons:

- There are limited alternatives for location of the building outside the RPA, as the RPA covers the back of the lot.
- Only second story of the home and deck will encroach into the RPA.
- The proposed redevelopment has been sited to minimize encroachment and impervious cover in the RPA;
- The existing footprint of the home is 850 sq ft and the proposed home and porch is 1530 sq ft, which is comparable in size to other remodeled homes in the area.
- The overall limits of clearing and grading have been minimized. (See Table 1)
- There is no room to expand to the sides and the applicant is minimizing impact in RPA.

Finding 2. Granting the exception will not confer upon the applicant any special privileges that are denied by this Chapter to other property owners who are subject to its provisions and who are similarly situated. This finding is intended to make sure that a granted exception would not give the applicant something that has been denied to others in similar situations, and gets to the equity, fairness, and arbitrary and capricious aspects of any exception request and decision.

Staff analysis:

- The request is similar in scope and RPA impact to exception requests approved previously by CBORC. Those exception requests also involved limited impacts to trees and natural topography of the RPA and result in negligible increases in intensity or volume of stormwater runoff.
- Because the proposed project involves a new encroachment into the RPA, it is required to be reviewed by CBORC.
- For example, a similar project was approved at 4071 35th st N which added 485 sq ft of impervious area in the RPA and created a new encroachment. CBORC approved the project which included stormwater management practices to mitigate for the increase in impervious cover.

Staff concludes that this finding will be satisfied.

Finding 3. The exception request is in harmony with the purpose and intent of this Chapter and is not of substantial detriment to water quality. This finding is made after reviewing the required WQIA that accompanies any exception request and involves an

evaluation of the footprint and location of the proposed development/use, the existing condition of the RPA, the impacts to the RPA, and the proposed mitigation measures.

Staff analysis:

- The RPA in the vicinity of the proposed project footprint is steep slope
- Silt fence will be installed around construction area to manage any runoff. The silt fence will protect the RPA from erosion and sediment laden runoff
- Contractor parking and stockpiling will be on the existing driveway to avoid land disturbance

Staff concludes that this finding will be satisfied.

Finding 4. The exception request is not based upon conditions or circumstances that are self-created or self-imposed. The emphasis of this evaluation is on the applicant's responsibility for and control over the conditions or circumstances on the parcel that require the need for an exception. More broadly, this finding evaluates whether the proposed use is suitable given the characteristics of the property and RPA (e.g., lot size, existing development footprint, topography, trees, etc.).

Staff analysis:

- The proposed home will be located on a portion of the property previously impacted by residential development.
- There are no trees proposed for removal in the RPA
- The stream channel turns towards the owner's property putting the RPA near the rear of the home. (See GIS Maps)

Staff analysis:

Staff believes that this condition has been satisfied for the reasons outlined above.

Finding 5. Reasonable and appropriate conditions are imposed, as warranted, that will prevent the allowed activity from causing a degradation of water quality. This finding is similar to Finding 3, with an emphasis on the proposed mitigation measures.

Staff analysis:

- The applicant is proposing to plant five native trees in the RPA.
- The proposed native tree planting will enhance the condition of the RPA on the parcel by providing additional planting. The area of additional planting will increase the impervious area being added in the RPA.
- The installation of silt fence during construction will protect water quality during construction as presented in Finding 3

Staff concludes that this finding will be satisfied.

CHESAPEAKE BAY ORDINANCE REVIEW COMMITTEE HEARING: CBORC will consider this exception request at a public hearing to be held on **May 26, 2022, at 7:00 pm**. This meeting will be held virtually on Microsoft Teams.

The following documents are attached for review, prior to the CBORC hearing:

Attachment 1

- Appendix C Water Quality Impact Assessment Data Sheet
- Appendix D Chesapeake Bay Preservation Ordinance Committee Application

For questions or additional information about this exception request, please contact Ty Asfaw at 703-386-6918 or rpareview@arlingtonva.us.

Cc:

Jason Papacosma, DES/OSEM
Christin Jolicoeur, DES/OSEM
Wahaj Memon, CAO

Table 1: Adjacent property Sizes

| Address | Finished Area (sf) B-basement | Year Built | Footprint (Estimate of land cover) | RPA encroachment | Additional info in real estate record (Sq ft) |
|---------------------------|-------------------------------------|------------|------------------------------------|------------------|---|
| 125 S ABERDEEN ST , | Floor 1 – 720 B – 819 2.0 594 | 1940 | 1379 sq ft | N | Wood Deck 272 |
| | | | | | Open Frame Porch 108 |
| | | | | | Roof Extension 21 |
| | | | | | Brick Patio 72 |
| | | | | | Masonry Stoop 21 |
| | | | | | Wood Deck 72 |
| | | | | | Open Masonry Porch 108 |
| 121 S ABERDEEN ST | B- 1070 1.0 – 770 2.0 - 572 | 1940 | 1083 sq ft | N | Open Frame Porch 30 |
| | | | | | Enclosed Frame Porch 300 |
| | | | | | Basement garage 425 |
| 117 S ABERDEEN ST | 1.0 – 1076 2.0 – 1076 B – 936 | 1940 | 1807 sq ft | N | Wood Deck 294 |
| | | | | | Wood Deck 140 |
| | | | | | Open Frame Porch 80 |
| | | | | | Wood Deck 140 |
| 129 S ABERDEEN ST | B – 572 1.0 – 572 2.0 572 | 1940 | 1023 sq ft | N | Open Frame Porch 140 |
| | | | | | Open Frame Porch 126 |
| | | | | | Wood Deck 12 |
| | | | | | Shed 140 |

GIS Maps



