RE: An Appeal from a Decision of the Administrative Hearing Officer	*	**BEFORE THE**
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	*	**COUNTY BOARD OF APPEALS**
	*	
	*	**OF ANNE ARUNDEL COUNTY**
STYLE WORKS DESIGN BUILD, LLC	*	
	*	**CASE NO.: BA 26-26V[1]**
Petitioner	*	**(2025-0243-V)**
	*	
	*	**Hearing Date: June 24 & August 26, 2026**
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MEMORANDUM OF OPINION

Summary of Pleadings

This is an appeal of a decision from the Administrative Hearing Officer granting a variance to allow a dwelling and associated facilities with less setbacks and buffer than required and with disturbance to slopes of 15% or greater, on property known as 870 Mill Creek Road, Arnold.

Summary of Evidence

Mr. Jerry Tolodziecki, an expert professional engineer familiar with Anne Arundel County regulations, described the four requested variances: (1) § 17-8-201 for steep slopes; (2) the expanded 100-foot buffer from a perennial stream, § 17-8-301; (3) § 18-4-601 for the front setback; and (4) § 18-4-601 for the side lot line setback. He is familiar with both the neighborhood and the proposed development. The proposed dwelling will contain 1,179 square feet, with an attached garage and additional on-site parking. This waterfront lot contains steep slopes, as do many lots in the surrounding area. The proposed stormwater management plan provides for a series of step pools. The existing impervious area includes approximately 1,864

[1] This property has been the subject of previous variance requests BA 73-18V (2018-0229-V) Curtis L. Payne, Jr. of C.L. Payne and Associates (denied 9/27/2019); and BA 15-22V (2022-0009-V) Style Works Design Build (withdrawn 8/30/2022).

square feet of roadway; Mr. Tolodziecki did not include the existing shed or skateboard ramp in that calculation. The roadway will be removed and replaced with shrubs and trees. The proposed road improvements are off-site, within the road right-of-way. The property comprises approximately one-third of an acre on Mill Creek. The entire property is within the Critical Area buffer, and most of the property is within the BMA. Without variances, no development could occur on this legally buildable lot. Mr. Tolodziecki testified that denial of the variances would deprive the owner of rights commonly enjoyed by other property owners because there would be no ability to construct a dwelling. Mr. Tolodziecki compared the proposed development with average conditions on nearby properties. The average structural coverage is 2,442 square feet, compared with 1,331 square feet proposed here. The average coverage attributable to walks and driveways is 1,672 square feet, compared with 427 square feet proposed. Total average impervious coverage is 4,114 square feet, while total proposed impervious coverage for this proposal is 1,758 square feet. He used County watershed resources data rather than SDAT records because SDAT does not calculate impervious coverage in the same manner; SDAT relies on finished floor area. Mr. Tolodziecki concluded that the proposed plan is reasonable and is in harmony with the Critical Area Program because it reduces impervious coverage, increases forest canopy, provides for clearing mitigation, and protects water quality. Moving the development elsewhere on the site would have greater environmental impacts. He testified that a smaller house could adversely affect property values. The proposed dwelling is only 25 feet deep. The garage would provide parking spaces for the owners, while two off-site spaces would accommodate guests. Removing the garage would not decrease lot coverage because parking would still be required. He considered it efficient to place living space above the garage. Mr. Tolodziecki further testified that most homes in the area have garages and that removing the

garage would detract from the character of the neighborhood. On Mill Creek Road, 58.9% of homes have garages, and no home has been constructed without a garage during the past 30 years. He concluded that the requested relief would not substantially impair adjoining properties or public water, sewer, and stormwater management facilities. He also testified that the requested variances will not reduce forest cover because clearing mitigation at a four-to-one ratio is required. Thus, the total mitigation will measure approximately 12,000 square feet. The 100-foot setback is not what creates the expanded buffer; rather, the perennial stream is the feature that creates the issue. The entire site is within the protected buffer. Mr. Tolodziecki also addressed prior variance applications for this property, which proposed greater steep slope disturbance. The County recommended approval in 2018 for a plan with the largest house and the greatest disturbance. Subsequently, the variances proposed have decreased in size and environmental impact. He testified that the proposed step pools will fully manage runoff and that less runoff will occur after development than before development. Runoff will flow due south toward the stream and away from the park. The project has received all approvals and the requested variances are the last approval necessary to commence development.

Mr. Kenneth Sikora, the Petitioner's witness, testified that the property contains several structures, including a deteriorated skateboard ramp and shed. There are also a BMX dirt course and a partial roadway that provides access to the water. He testified that there is no way to bring a boat to the neighboring property without using the roadway across this property. The shed is not within the water during any tide. He described the creek as a trickling perennial stream that is not suitable for boat traffic. Mr. Sikora testified that his mother purchased the property in 2021 through the company that is the Petitioner. He is a builder and is familiar with Critical Area building regulations. He testified that a grading permit has been issued for the property, and the

variances remain the only outstanding issue. He has discussed development of the property with the County and believes that the proposed plan is the best plan for the site. The proposed plan sharply reduces impervious coverage. In his view, a smaller structure would not fit within the neighborhood because it would appear to be a townhouse. The development is focused on the IDA portion of the property. The right-of-way is used by the neighbor as the principal access point to the neighbor's home, and the proposed parking will not interfere with that access. Currently, two boats are parked on the right-of-way: one owned by the neighbor and another that appears abandoned. The boats occupy approximately 27 to 30 feet and 20 to 23 feet, respectively, of street parking area. He considered a plan without a garage but testified that all newer homes in the area include garages. He described the proposed step pool stormwater management plan and testified that the proposed plantings and improvements within the former hard-packed driveway will enhance the environment. He testified that there is a winter view of the waterway from the property but that he does not expect a summer view.

Mr. Eric Stewart, the Protestant, testified in opposition to the requested variance. He stated that, if the proposed house were moved closer to the eastern side property line, it would be located on fewer steep slopes and farther from the tidal wetlands and his home. He believes that the application exceeds the minimum relief necessary. Mr. Stewart lives on a historic property known as the Yrttimaa House. He expressed concern about impacts to his views and runoff from the proposed development. Horned Pond Weed ("HPW") is a type of submerged aquatic vegetation ("SAV") plant that is growing in the creek.

Mr. Donnie Dyott, a Senior Planner with the Office of Planning and Zoning, reviewed the application for variances for the subject property. The application requests approximately 2,000 square feet of disturbance to 15% or greater steep slopes, approximately 4,000 square feet of

disturbance to the stream buffer, and front and corner side lot line variances. He stated that the Critical Area variances are not the minimum necessary to afford relief but that he supports the lot line setback variances. He recommended removal of the integral garage, noting that the living space could be increased while the total impervious surface could be decreased. On questioning, Mr. Dyott noted that he did not know where the Critical Area Team obtained the square footage figures contained in its comments. Mr. Tolodziecki's figures refer to total impervious coverage. In 2018, Mr. Dyott recommended approval of a plan for a larger house with an integral garage.

Mr. Stephen Hutchins, a neighbor, testified that he has lived on Mill Creek Road since November 1993. A realtor told him that the subject property was a non-buildable lot, which he viewed positively. He testified that, when severe weather occurs, the flood levels permitted kayaker access almost to the park area. The house will be sold to a third party and storms will adversely affect the proposed house. He described the property as having no yard, only a gully extending from the park. There is a nearby sewage line. He stated that anything that harms the slope will harm Mill Creek. Mill Creek Road is very narrow, and emergency access is difficult. The trash truck cannot turn around. The asphalt apron was installed so that school buses could turn around, but school buses no longer travel down the road.

Ms. Sue Ricciardi, Vice President of the Arnold Preservation Council, testified in opposition to the variances. She stated that there are many steep slopes and that the property resembles a ravine. The lot should not be developed. She testified that the plats for Magothy Shores do not show a separate lot for this property. In 1946, the parcel was originally sold to the owner of Lot 30. The covenants provide that no dwelling may be located within the first 30 feet from the roadway. She also noted that the Office of Planning and Zoning commented that there should be no parking in front of the garage.

Ms. Lori Stewart testified that she is married to the Protestant. The Petitioner purchased the lot in 2021 with knowledge that the variances had previously been denied. A significant sewage spill resulted in an expensive, multiyear restoration plan for Mill Creek. In her view, the Petitioner reduced the proposed plan only slightly. She expressed concern about the environmental consequences if the variances are approved and recommended that the Board follow the recommendation of the Office of Planning and Zoning.

Mr. Paul Spadaro, President of the Magothy River Association, testified that his organization purchased four million oysters to help clean the Magothy River. All 30 member communities in the Magothy River Association support the County's recommendation to deny the requested variances. He does not believe that every lot in the County is buildable. Mill Creek is directly threatened by impacts to anadromous fish. The creek has undergone restoration and is currently recovering, but development of this lot could cause harmful runoff. He also stated that the project may be located at a historic mill site, although the mill associated with Mill Creek has not been found.

Ms. Katheryn Dill testified in opposition to the variances. She lives on Mill Creek and has lived in the area for 35 years. She testified that the area has been overdeveloped during her lifetime. The variance notice signs remain on the property. She also testified that construction trucks would block her access to the park when she walks her dog.

Mr. Kevin Haines, an expert environmental consultant and owner of Holly Oak Consulting, testified on rebuttal that he prepared the Chesapeake Bay Critical Area Report for the Petitioner's variance application. He testified that he did not initially encounter any rare or endangered species. He later conducted another site visit and reviewed the State's map showing areas of concern. HPW is a common submerged aquatic vegetation species and is not rare,

threatened, or endangered. In a year that has good conditions for SAV, HPW is very common. Mitigation is proposed, and there are many invasive plant species on the site. He stated that he has no environmental concerns if the variances are granted. With respect to animal species, he found no rare, threatened, or endangered species or habitat. He also found a hard-packed road on the property.

Mr. Tolodziecki testified on rebuttal that the historic structure next door does not affect development of this lot because the house is historic due to its occupants. The house was built in the 1940s and has been altered as recently as within the last six years per his search of the permit records. The Office of Planning and Zoning approved the grading permit and did not require special archaeological attention. The grading permit reflects that stormwater management requirements have been met. He testified that the development will not create additional runoff in the area and described the direction of runoff into the creek after treatment through the step pools. Mr. Tolodziecki evaluated the Protestant's proposed house area for the subject lot but concluded that the area is within the RCA and is therefore subject to greater regulatory protections. He placed the house in the IDA, which is predetermined to be subject to development and is subject to fewer regulatory protections. He testified that locating the house in the RCA would increase disturbance within the most sensitive part of the Critical Area. If the garage were removed and the house remained the same size, it would be one of the smallest houses in the neighborhood and would not decrease impervious coverage. Stormwater runoff would improve by at least 10% over existing conditions after development. This development would result in the second smallest amount of coverage in the neighborhood.

All testimony was stenographically recorded and the recording is available to be used for the preparation of a written transcript of the proceedings.

Findings and Conclusion

The subject property contains approximately 14,536 square feet. It is a non-waterfront parcel in the R5-Residential District and lies within the Chesapeake Bay Critical Area. The parcel includes land designated as both Intensely Developed Area ("IDA") and a Resource Conservation Area ("RCA"). The site plans and testimony reflect that the property contains steep slopes, a perennial stream buffer, and existing site features, including a deteriorated skateboard ramp and shed, a BMX dirt course, and a partial roadway. The Petitioner proposes a two story, single-family detached dwelling, less than 35 feet in height, measuring approximately 27 feet by 25 feet, with an attached garage measuring approximately 21 feet by 24 feet, together with associated facilities.

The requested relief consists of: (1) a Critical Area variance under § 17-8-201(a) and (b) for disturbance to approximately 1,999 square feet of slopes of 15% or greater; (2) a Critical Area buffer variance for disturbance to approximately 4,205 square feet of the perennial stream buffer; (3) a front lot line setback variance to allow the dwelling as close as 18 feet from the front lot line where 25 feet is required; and (4) a corner side lot line setback variance to allow the dwelling as close as 7 feet from the corner side lot line where 20 feet is required. Final disturbance, lot coverage, and dimensional calculations remain subject to verification during permitting.

The Board finds that the parcel's steep slopes and the stream buffer are physical conditions peculiar to this property that materially constrain the location of a dwelling and its associated facilities. Those environmental constraints substantially limit the ability to develop the parcel for the permitted residential use in strict conformity with the applicable Critical Area regulations and bulk requirements. The Board credits the testimony of Mr. Tolodziecki that the

proposed building location concentrates development in the IDA portion of the property. The alternative location suggested by the Protestant would place the dwelling in the RCA, a more highly protected area, and would increase disturbance within the most sensitive part of the Critical Area. The Board further credits his testimony that the proposed step pool system will treat runoff before it reaches the creek; that the project will not create additional runoff; and that post-development runoff is expected to improve by at least 10 percent over existing conditions. The grading permit has been issued, which confirms that this applicant has met the stormwater management requirements. The proposed development reduces and replaces existing disturbed and impervious site features with stormwater management measures and landscaping. The Petitioner's evidence compares the proposed coverage favorably to existing conditions and nearby development. The Board finds that the proposal, as conditioned, represents a measured design that minimizes permanent coverage and environmental impacts while allowing reasonable residential use of the property.

Mr. Haines, the environmental consultant who prepared the Chesapeake Bay Critical Area Report, testified that mitigation is proposed; that the site contains numerous invasive species; and that he found no rare, threatened, or endangered species, habitat, or other environmental conditions that would preclude the requested variances.

The Board has considered the concerns raised by the Protestant and concerned citizens regarding runoff, steep slopes, environmental impacts, traffic and access, the historical context of nearby properties, and the property's prior variance history. Those concerns were relevant to the Board's review. However, the Board finds that the competent evidence regarding the proposed location of the dwelling, stormwater treatment, mitigation, and permitting controls demonstrates that the requested relief will not adversely affect water quality, fish, wildlife, or plant habitat and

will not substantially impair the appropriate use or development of adjoining property. The Board gives limited weight to testimony regarding private covenants and restrictions, as enforcement and interpretation of those private instruments are outside the Board's jurisdiction in this variance proceeding. This decision does not determine or affect any private rights or obligations.

Each requested variance must satisfy all requirements in Anne Arundel County Code § 3-2-207. Failure to meet any applicable requirement requires denial. The Petitioner seeks both Critical Area variances and bulk regulation variances. The Board first considers the bulk regulation variances and then the Critical Area variances.

Variances to the Bulk Regulations

Anne Arundel County Code § 18-4-701 requires a principal structure in the R5-Residential District to be set back at least 25 feet from the front lot line and 20 feet from a corner side lot line. The proposed dwelling will be located as close as 18 feet from the front lot line and seven feet from the corner side lot line. The Petitioner therefore requests a seven-foot front lot line setback variance and a 13-foot corner side lot line setback variance.

As a threshold matter, § 3-2-207(a)(1) requires the Petitioner to show that the need for the variances results from unique physical conditions on the property such that there is no reasonable possibility of developing the lot in strict conformity with the regulations. Alternatively, under § 3-2-207(a)(2), the Petitioner may show that exceptional circumstances, other than financial considerations, make the grant necessary to avoid practical difficulties or unnecessary hardship and to enable development of the lot. The property is constrained by steep slopes, the perennial stream buffer, and the division between IDA and RCA. These conditions materially restrict the feasible location of the dwelling and related facilities. To protect the environmental features of

the site and nearby Mill Creek, the house must be placed as far from the perennial stream as possible. The Board finds that the requested bulk regulation relief is attributable to the unique physical conditions of the property and, independently, is necessary to avoid practical difficulties in enabling reasonable residential development.

Once the threshold of § 3-2-207(a) has been met, § 3-2-207(e)(1) requires the Petitioner to show that the requested variances are the minimum necessary to afford relief. The Board credits Mr. Tolodziecki's testimony that the proposed dwelling location concentrates development in the IDA and avoids greater disturbance in the more protected RCA. Because relocating the dwelling to the Protestant's suggested location would increase Critical Area disturbance in the RCA, the Board finds that the requested front and corner side lot line variances are the minimum necessary to afford relief.

The Code next requires proof that the requested variances will not alter the essential character of the neighborhood or district. § 3-2-207(e)(2)(i). The Board finds that the neighborhood's essential character is residential and includes homes of varying size and configuration. The evidence establishes that garages are common on Mill Creek Road. The proposed single-family dwelling and attached garage, even with the requested setback relief, will not alter the neighborhood's essential residential character.

The Petitioner must also show that the variances will not substantially impair the appropriate use or development of adjacent property. § 3-2-207(e)(2)(ii). The Board considered the neighbors' concerns about runoff, access, slopes, views, and construction activity. The Board finds more persuasive the credited technical evidence concerning the step pool treatment system, the mitigation proposal, the reduction of post-development runoff, and the continuing review of all construction through the applicable permit and inspection process. The requested bulk

regulation variances will not substantially impair the appropriate use or development of adjacent property. The adjacent properties are fully developed, and the construction of this home will not extend beyond the property lines.

The Petitioner must further show that the requested variances will neither reduce forest cover in the limited development and resource conservation areas of the Critical Area nor be contrary to acceptable clearing and replanting practices required for Critical Area development. § 3-2-207(e)(2)(iii)–(iv). The approval is conditioned on compliance with all applicable clearing, replanting, and mitigation requirements. The evidence further establishes that the proposal includes mitigation and landscaping and will restore portions of the site now occupied by disturbed and impervious features. The Board finds that the bulk regulation variances will not result in a prohibited reduction of forest cover and will not be contrary to acceptable clearing and replanting practices.

Finally, the Petitioner must prove that the requested variances will not be detrimental to the public welfare. § 3-2-207(e)(2)(v). The Board finds that the setbacks place the dwelling farther from environmental features while preserving adequate separation from property lines. The requested bulk regulation variances will not be detrimental to the public welfare.

Having found that the Petitioner has met every applicable requirement of § 3-2-207(a) and (e), the Board grants the requested seven-foot variance from the 25-foot minimum front yard setback and 13-foot variance from the minimum 20-foot corner side lot line setback requirements.

Variances to the Critical Area Program

The Petitioner also requests Critical Area variances to permit approximately 1,999 square feet of disturbance to slopes of 15% or greater under § 17-8-201(a) and (b), and approximately

4,205 square feet of disturbance within the perennial stream buffer regulated by § 18-13-104 and § 17-8-301. Final disturbance calculations remain subject to verification during permitting.

For a Critical Area variance, the Petitioner must first establish that, because of unique physical conditions—including exceptional topography or the lot's size or shape—strict implementation of the County Critical Area Program would result in an unwarranted hardship. § 3-2-207(b)(1). "Unwarranted hardship" means that, without a variance, the applicant would be denied reasonable and significant use of the entire parcel. Md. Code Ann., Natural Resources § 8-1808. A residence may constitute a reasonable and significant use where no dwelling can be constructed without some variance relief. *Chesapeake Bay Found., Inc. v. DCW Dutchship Island, LLC*, 439 Md. 588, 619, 97 A.3d 135 (2014). The minimum necessary analysis must likewise recognize that an applicant is entitled to construct some type of reasonable structure, rather than only the smallest structure theoretically possible. *Becker v. Anne Arundel County*, 174 Md. App. 114, 144–46, 920 A.2d 1118 (2007).

The Board finds that the entire property lies within the required 100-foot buffer to the perennial stream, Mill Creek, and that steep slopes consume nearly all the site. These conditions are peculiar to this parcel and leave no feasible location to construct a dwelling and its associated facilities without variance relief. Both Mr. Tolodziecki and the County's analysis confirm these facts. Strict enforcement of the Critical Area Program without any relief would prevent construction of any home on this legally buildable, residentially zoned property. A single-family home is a reasonable and significant use of the parcel. The Petitioner has therefore established unwarranted hardship under § 3-2-207(b)(1).

The Petitioner must next show that literal interpretation of COMAR Title 27 and the County's Critical Area Program would deprive the Petitioner of rights commonly enjoyed by

other properties in similar areas. § 3-2-207(b)(2)(i). The Board finds that the construction of a single-family dwelling is a reasonable use of this R5-Residential parcel. Without the requested Critical Area relief, no reasonably configured dwelling and associated facilities could be constructed. The variances permit the reasonable residential use commonly enjoyed by other legally developable residential properties while retaining the environmental safeguards required by the conditions and permit process.

The Petitioner must also show that granting the variances will not confer a special privilege denied under COMAR Title 27 or the County Critical Area Program to other lands or structures in the County's Critical Area. § 3-2-207(b)(3). No special privilege is created here. The relief results from the property's site-specific environmental constraints; it is limited to the plan before the Board; it directs development to the IDA rather than the more protected RCA; and it is subject to mitigation and permit requirements. The Board finds that this criterion is met.

The Petitioner must prove that the variance request is not based on conditions or circumstances resulting from the Petitioner's actions, including the commencement of development before filing the application, and does not arise from land or building use on a neighboring property. § 3-2-207(b)(4)(i)–(ii). The Board finds that the need for the requested Critical Area relief arises from the existing steep slopes and perennial stream buffer. Those conditions were not created by the Petitioner and do not arise from land or building use on neighboring property. The Petitioner's proposed removal and restoration of currently disturbed site features does not create the environmental constraints for which the variances are sought.

The Petitioner must further show that the requested variances will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat and will be in harmony with the general spirit and intent of the County Critical Area Program. § 3-2-207(b)(5)(i)–(ii). The Board

credits Mr. Tolodziecki's testimony that the proposed step pools will treat runoff before it reaches the creek, that the development will not create additional runoff, and that post-development runoff will improve by at least 10 percent over existing conditions. The Board also credits Mr. Haines's testimony that mitigation is proposed, the site contains invasive species, and no rare, threatened, or endangered species or habitat were identified. The proposed location of the improvements within the IDA avoids greater disturbance in the RCA. Subject to the conditions below and all permit requirements, the Board finds that the requested Critical Area variances satisfy § 3-2-207(b)(5)(i) and (ii).

The property is not located in a bog protection area; therefore, the requirement in § 3-2-207(b)(6) is inapplicable.

The Petitioner must also overcome, by competent and substantial evidence, the presumption in Natural Resources Article § 8-1808 that the development activity for which a variance is sought does not conform to the Critical Area law and the County's program. § 3-2-207(b)(7). The presumption is rebutted when the Board finds, on competent and substantial evidence, that the Petitioner has satisfied each applicable variance standard. *Assateague Coastal Trust, Inc. v. Schwalbach*, 448 Md. 112, 136 A.3d 866 (2016). Here, the Board expressly finds that the project is designed to direct the dwelling to the IDA, rather than the more protected RCA; to replace or restore currently disturbed site features; to treat runoff through step pools before it enters Mill Creek; and to provide required mitigation. The Board credits Mr. Haines's environmental testimony that no rare, threatened, or endangered species or habitat was identified and that the proposed mitigation and site conditions do not create environmental concerns if the variances are granted. The Board further credits the engineering testimony that the project will not create additional runoff and is expected to improve post-development runoff by at least 10

percent over existing conditions. The grading permit, together with the continuing permit review, supplies further assurance that stormwater, erosion and sediment control, utilities, parking, right-of-way issues, and cultural resource conditions will be reviewed and enforced. These particular facts constitute competent and substantial evidence that the proposal will be in harmony with the Critical Area Program's purpose of protecting water quality and habitat while accommodating appropriately controlled development. The Board therefore finds that the Petitioner has rebutted the statutory presumption.

Having met the criteria unique to a Critical Area variance, the Petitioner must also satisfy the requirements in § 3-2-207(e)(1) and (e)(2). The statutory requirement is the minimum variance necessary to afford relief, not the minimum possible use of the parcel. The relevant inquiry is whether the proposed variances are necessary to permit a reasonable and significant use of the entire parcel, taking into account feasible alternative locations and configurations on the site.

The Board finds that the slope disturbance and perennial stream buffer variances are the minimum necessary to afford relief. § 3-2-207(e)(1). The entire parcel is within the Mill Creek perennial stream buffer, and steep slopes consume nearly all of the site. Thus, a variance is unavoidable for any dwelling and associated facilities. The Board finds Mr. Tolodziecki's site-specific testimony persuasive that the proposed location uses the IDA portion of the parcel and that placing the dwelling in the alternative location suggested by the Protestant would place it in the more protected RCA and increase Critical Area disturbance. The proposed dwelling provides a reasonable and significant residential use—a single-family residence—of this legally buildable, residentially zoned property. The Board also finds credible and compelling the comparative coverage evidence: the proposed total on-site impervious coverage is 1,758 square feet,

compared with an average of 4,114 square feet for the nearby properties evaluated; the proposed structural coverage is 1,331 square feet, compared with a 2,442-square-foot average; and the proposed walks-and-drives coverage is 427 square feet, compared with a 1,672-square-foot average. The Board further notes the evidence that 58.9 percent of the Mill Creek Road homes have garages and that no home built there in the preceding 30 years lacked a garage. On this record, the Board finds that the requested variances permit reasonable residential use while avoiding a less protective alternative site location and while producing substantially less coverage than the relevant neighborhood comparison.

The Board further finds that the Critical Area variances will not alter the essential residential character of the neighborhood or district. § 3-2-207(e)(2)(i). The variances will permit the construction of a house. The neighborhood has a residential character and homes are typical. The Board also finds that the variances will not substantially impair the appropriate use or development of adjacent property. § 3-2-207(e)(2)(ii). The home will be contained within the property lines, and the surrounding properties are all developed. The project is subject to final review and enforcement of the grading, stormwater management, utility, parking, and right-of-way requirements, and the evidence demonstrates that runoff will be treated and reduced rather than increased.

The Board finds that the Critical Area variances will not reduce forest cover in the limited development and resource conservation areas of the Critical Area and will not be contrary to acceptable clearing and replanting practices. § 3-2-207(e)(2)(iii)–(iv). Required mitigation, clearing, and replanting measures will be determined and enforced through the applicable permits. Finally, the Board finds that the Critical Area variances will not be detrimental to the public welfare. § 3-2-207(e)(2)(v). The conditions imposed below preserve

agency oversight of the development and ensure compliance with all applicable environmental and public safety requirements. The post-development runoff conditions will decrease by at least 10 percent, and the step pool configuration was particularly compelling to manage quality and direct flow. We all want Mill Creek to continue its recovery, and this development will assist in that recovery with its stormwater management and removal of existing impervious surfaces.

The Petitioner bears the burden of establishing each applicable variance criterion. The Board finds that the Petitioner has carried that burden by competent and substantial evidence. The requested Critical Area variances are therefore granted, subject to the conditions stated in the Order.

ORDER

For the reasons stated above, it is this 2nd day of Sept., 2026, by the County Board of Appeals of Anne Arundel County, **ORDERED**, that the Petitioner's requests in BA 26-26V (2025-0243-V), as follows: a variance to permit approximately 1,999 square feet of steep slope disturbance; a variance to permit approximately 4,205 square feet of stream buffer disturbance; a variance of seven feet to the minimum 25-foot front yard requirement; and a variance of 13 feet to the minimum 20-foot setback to the corner side lot line, are hereby **GRANTED**.

Any appeal from this decision must be in accordance with the provisions of Section 604 of the Charter of Anne Arundel County, Maryland.

If this case is not appealed, exhibits must be claimed within 90 days of the date of this Order; otherwise, they will be discarded.

Any notice to this Board required under the Maryland Rules shall be addressed as follows: Anne Arundel County Board of Appeals, Arundel Center, P.O. Box 2700, Annapolis, Maryland 21404, ATTN: Deana L. Bussey, Clerk.

NOTICE: This Memorandum of Opinion does not constitute a building or grading permit and may be valid for a limited time period. In order for the applicant to construct or retain any structures allowed by this opinion, or to perform or retain any grading allowed by this opinion, the applicant must apply for and obtain the necessary building or grading permit and any other approval that may be required to perform the work described herein within the time allotted by law or regulation.

COUNTY BOARD OF APPEALS
OF ANNE ARUNDEL COUNTY

Darrin Michael Jacobs, Chair

Phillip D. Bissett, Member

James R. Estepp, Member

(John R. Fury, Member, William A. Dax, Member, and Anthony V. Lamartina, Member, did not participate in this appeal.)

DISSENT

I respectfully dissent from the decision to grant the Critical Area variances. Although the property's topography and buffer constraints may warrant some relief, and the requested front and corner/side lot line setback variances may be justified, the Petitioner has not met its burden to establish that the Critical Area variances are the minimum necessary to afford relief. Anne Arundel County Code § 3-2-207(e)(1).

The Petitioner seeks to disturb approximately 1,999 square feet of slopes of 15% or greater and 4,205 square feet of perennial stream buffer to construct a 1,179-square-foot dwelling with an attached garage and associated facilities. The County's Senior Planner, Mr. Dyott, testified that these variances are not the minimum necessary and recommended eliminating the integral garage, which would permit additional living space while reducing impervious surface. The County also identified smaller nearby homes, including five of the six homes immediately east of Mill Creek Road, which have 864-square-foot footprints, off-street parking, and no garages. The proposed development coverage totals 2,019 square feet when the 372-square-foot off-site driveway is included.

Although the Petitioner reduced the proposal from earlier designs, the record demonstrates that further reductions were available. In particular, eliminating the integral garage and revising the dwelling configuration could reduce impervious coverage and Critical Area disturbance while still allowing reasonable residential use of the property. Accordingly, the Petitioner has not demonstrated that the requested Critical Area variances are the minimum necessary to afford relief.

Lade R. Akinbolaji, Vice Chair