



February 9, 2026

The Honorable, Marc Korman, Chair
House Environment and Transportation Committee
250 Taylor House Office Building
Annapolis, Maryland 21401

Unfavorable: HB 247 – Critical Area Variances

Dear Chair, Korman and Committee Members:

The NAIOP Maryland Chapters representing approximately 700 companies involved in all aspects of commercial, industrial, and mixed-use real estate recommend your unfavorable report on HB 247. NAIOP’s membership includes companies with water-dependent operations and properties that can be affected by changes to Critical Area, law and regulations. Our opposition to HB 247 is based on two provisions that would significantly affect the administration of Critical Area variance applications.

First, the bill creates a “*rebuttable presumption*” that any existing accessory structure or use on a parcel qualifies as “*reasonable and significant use*.” Because properties that already meet this standard are generally ineligible for a variance, this change would make it much harder for applicants to qualify. Older accessory structures—such as pre-Critical Area piers or boathouses—could automatically block applicants from even demonstrating the need for a variance. A presumption under these circumstances is not supported by recent case law and would impose unnecessary barriers to redeveloping commercial and industrial properties. For these reasons, this provision should be removed.

Second, the bill requires local Boards of Appeals to hear “*on the record appeals*” of administrative decisions and to “*grant deference*” to the administrative officer’s findings of fact. (p. 3, lines 27-31) This change would have wide-ranging operational impacts that would upend current practice in many counties.

For example, in Anne Arundel County, all Critical Area variances are currently heard first by an Administrative Hearing Officer, after which the Board of Appeals conducts a “*de novo*” review, meaning the Board looks at all of the facts and law independently and makes its own decision. The proposed requirement would substantially alter this established process.

This change would also increase costs and procedural complexity. Applicants cannot predict whether opposition will appear at a hearing; as a result, every administrative case—no matter how minor—would have to be prepared as if it were being fully litigated for the record at the appellate level. In jurisdictions where all appeals must already pass through a hearing officer before reaching the Board of Appeals or Board of Zoning Appeals, this change would be counterproductive.

For these reasons, NAIOP respectfully requests your unfavorable report on HB 247.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Ballentine".

Tom Ballentine, Vice President for Policy
NAIOP – Maryland Chapters, *The Association for Commercial Real Estate*

cc: Environment and Transportation Committee Members
Nick Manis – Manis, Canning Assoc.