

BEFORE THE TALBOT COUNTY BOARD OF APPEALS

IN THE MATTER OF	*	CASE NO. CAVR-26-13
JAMIE AND CYNTHIA SMITH	*	VARIANCE REQUEST APPLICATION (Critical Area)

* * * * *

The Board of Appeals (the “Board”) held a hearing on September 28, 2026, in the Bradley Meeting Room, Court House, South Wing at 11 N. Washington Street, Easton, Maryland to consider the application of Jamie and Cynthia Smith (the “Applicants”). Applicants requested Critical Area and Non-Critical Area variances for the property at 28210 Old Country Club Rd., Easton, Maryland (“Property”). Chairman Frank Cavanaugh, Vice Chairman Louis Dorsey, Jr., Board Members Meredith Watters, Jeff Adelman, Zakary Krebeck, and Board Attorney Lance M. Young were present. Board Secretary Christine Corkell and Planner Andrew Nixon appeared on behalf of the County.

STATEMENT OF THE CASE

The Applicants requested a Critical Area variance of the 100’ Shoreline Development Buffer (“Buffer”) to construct a two-story addition attaching an existing dwelling and existing detached garage over an existing brick patio and porch. The Applicants also requested a Non-Critical Area variance of the side yard building restriction line to construct a detached garage.

SUMMARY OF TESTIMONY

The Applicants were represented at the hearing by legal counsel, Brendan Mullaney, who appeared alongside Applicant Jamie Smith. Brett Ewing, a land planner with Lane Engineering, also appeared and testified on behalf of the Applicants as an expert witness.

The Board first acknowledged the Applicants’ written responses and accepted them as testimony.

Mr. Mullaney provided an overview of the application, noting that the 4.736-acre Property was first improved around 1920. With the exception of a swimming pool added in 2015, all existing site improvements predate the enactment of Critical Area laws. He explained that these pre-existing improvements, apart from the pool, are non-conforming. Mr. Mullaney noted that the existing garage does not function effectively for vehicle storage because it directly faces the primary residence. The Applicants seek to replace it with a new detached garage situated over an existing parking pad.

Mr. Mullaney explained that the proposed development will result in an 188-square-foot reduction of lot coverage within the Buffer. He contended that the Applicants analyzed the site and removed as much coverage within the Critical Area as feasible, including the removal of a

brick walkway leading to the pier, a reduction not required under Critical Area law. While the new garage will add lot coverage overall, none of that additional coverage will be located within the Buffer.

Mr. Mullaney emphasized that the unwarranted hardship arises from the narrow shape of the Property combined with the non-conforming status of its historic improvements. The Buffer encumbers three of the four sides of the home, while the remaining portion of the narrow parcel is constrained by dense trees and vegetation, a septic tank, a sewage disposal area, and required setbacks. The new garage is designed to avoid Buffer impacts while improving ingress and egress to and from the Property. Characterizing the proposed house improvements as reasonable, Mr. Mullaney argued that a strict interpretation of the Critical Area law would deprive the Smiths of the ability to make reasonable home improvements enjoyed by other property owners within the same zoning district.

Mr. Smith testified that the Applicants purchased the Property approximately 30 years ago when raising their four young children. Now that their children are adults with families of their own, the Applicants need to expand the primary living space and garage to accommodate frequent gatherings with extended family. He explained that the principal objectives of the variance request are to create a functional kitchen and dining area and to construct a garage capable of accommodating parked vehicles.

Brett Ewing testified as an expert witness in Critical Area law and land development. He testified that total lot coverage following the project will be 9.8%, well within the 15% maximum permitted under Critical Area regulations and noted that all current coverage within the Buffer predates Critical Area legislation. Mr. Ewing concurred that unique site conditions justify the requested variances, specifically citing the parcel's narrow configuration, existing driveway and circular parking areas, septic system and sewage disposal area, and surrounding vegetation. He highlighted that the new construction will be situated on an existing gravel area and that placing the improvements anywhere else on the lot would result in greater adverse environmental impacts.

Andrew Nixon, Talbot County Planner, testified that mitigation will not be required because the Applicants are decreasing total lot coverage within the Buffer.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

All members of the Board have personally visited the site, and this decision is based upon the Board's direct visual observations, the testimony of the witnesses, submitted responses to variance criteria, and the comprehensive written record.

The Board addresses the standards for a Critical Area variance set forth in the Talbot County Code, § 190-58.4.

1. *Special conditions or circumstances exist that are peculiar to the land or structure such that a literal enforcement of the provisions of this chapter would result in unwarranted hardship.*

The Board finds that special conditions and circumstances exist. The primary dwelling and detached garage were constructed around 1920, well prior to the enactment of the Critical Area law, and are encumbered by the 100-foot Shoreline Development Buffer. These historic, pre-existing conditions make any logical expansion or connection of the structures impossible without a variance. Furthermore, the proposed addition is modest in size and utilizes the existing structural footprint, resulting in a net decrease of 188 square feet of lot coverage within the Buffer. Literal enforcement would deprive the Applicants of the reasonable opportunity to expand their home, constituting an unwarranted hardship.

2. *A literal interpretation of the Critical Area requirements will deprive the property owner of rights commonly enjoyed by other property owners in the same zoning district.*

The Board finds that a literal interpretation of the regulations would deprive the Applicants of rights commonly enjoyed by other property owners in the Rural Residential (RR) zoning district. It is standard for property owners in this district to expand and improve their homes to meet family needs. While the structures are legally non-conforming within the Buffer, the proposed addition is sited over an existing patio and porch, and overall lot coverage within the Buffer will be reduced rather than increased.

3. *The granting of a variance will not confer upon the property owner any special privilege that would be denied to other owners of lands or structures within the same zoning district.*

The Board concludes that granting the variance will not confer any special privilege. Other property owners in the district possess the common right to renovate and improve their dwellings.

4. *The variance request is not based on conditions or circumstances which are the result of actions by the applicant, including the commencement of development activity before an application for a variance has been filed, nor does the request arise from any condition relating to land or building use, either permitted or nonconforming, on any neighboring property.*

The need for the variance is not self-created. The home and garage were constructed by predecessors-in-title over a century ago, long before modern Critical Area restrictions. No action by the Applicants created the underlying constraints, and the request is entirely unrelated to neighboring property uses.

5. *The granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat, and the granting of the variance will be in harmony with the general spirit and intent of the state Critical Area Law and the Critical Area Program.*

The project will not adversely affect water quality or habitat. The addition will occupy space currently maintained as an existing patio and porch, providing no habitat value or water quality benefit. Moreover, the project achieves a net reduction of 188 square feet of lot coverage within the Buffer, all existing trees and vegetation will remain undisturbed, and no new construction will extend closer to Mean High Water than the existing dwelling.

6. *The variance shall not exceed the minimum adjustment necessary to relieve the unwarranted hardship.*

The Board finds that the request represents the minimum adjustment necessary. The Applicants carefully designed the addition to utilize existing lot coverage, maintain distances from the shoreline, eliminate unnecessary hardscaping, without expanding the footprint further into sensitive areas.

7. *If the need for a variance to a Critical Area provision is due partially or entirely because the lot is a legal nonconforming lot that does not meet current area, width or location standards, the variance should not be granted if the nonconformity could be reduced or eliminated by combining the lot, in whole or in part, with an adjoining lot in common ownership.*

The Board finds that this criteria is not applicable.

The Board addresses the standards for a Non-Critical Area variances set forth in the Talbot County Code, § 190-58.3.

A. Unique physical characteristics exist, such as unusual size or shape of the property or extraordinary topographical conditions, such that a literal enforcement of the provisions of this chapter would result in practical difficulty or unreasonable hardship in enabling the applicant to develop or use the property;

The Board finds that unique physical characteristics exist. The parcel is unusually narrow, and three of its four sides are heavily constrained by the Shoreline Development Buffer. The remaining buildable area is restricted by dense vegetation, an existing septic tank, a sewage disposal area with mandatory setbacks, and existing driveway configurations. The existing garage is oriented facing the home, rendering it unusable for actual vehicle storage. Literal enforcement would create an unreasonable hardship in allowing the Applicants to construct a functional detached garage.

B. The need for the variance is not based upon circumstances which are self-created or self-imposed;

The need for the variance is not self-created. The home, layout, and non-conforming garage location stem from historic site development by predecessors-in-title. The new detached garage is sited primarily over an existing gravel parking area and is positioned entirely outside the Buffer.

C. Greater profitability or lack of knowledge of the restrictions shall not be considered as sufficient cause for a variance;

The Board finds, from the testimony and responses provided, that the request is not predicated upon greater profitability or lack of knowledge of the code.

D. The variance will not be contrary to the public interest and will not be a detriment to adjacent or neighboring properties;

The variance will not harm the public interest or adjacent properties. The new garage will not encroach closer to adjacent property lines than existing structures and is located completely outside the Buffer. It will be fully screened from neighboring parcels by existing mature trees and vegetation.

E. The variance shall not exceed the minimum adjustment necessary to relieve the practical difficulty or unreasonable hardship.

The Board finds that the 10.1-foot setback variance for the detached garage is the minimum adjustment necessary. The garage is aligned with existing parking areas and requires minimal driveway reconfiguration while respecting all septic and buffer constraints.

Documents on Record

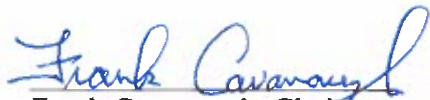
1. Application for a Critical Area variance.
2. Tax Map with subject property highlighted.
3. Notice of public hearing for advertising.
4. Newspaper confirmation.
5. Notice of public hearing with list of adjacent property owners attached.
6. Critical Area variance standards.
7. Non-Critical Area variance standards.
8. Staff Report.
9. Sign maintenance agreement.
10. Critical Area Commission Comments.
11. Authorization letter.
12. Independent Procedures Disclosure and Acknowledgement Form.
13. Aerial photo.
14. Photos submitted by Andrew Nixon, 8 pages.
15. Plats on Existing Conditions prepared by Lane Engineering, LLC, Job No. 240374, dated 7/2/26.
16. Elevation Plans.
17. Floor Plans.

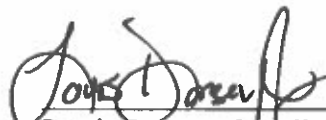
Vice Chairman Dorsey made a motion to approve the requests subject to staff conditions. Mr. Krebeck seconded the motion, and it was unanimously approved.

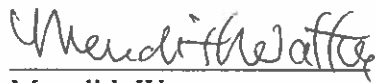
Based upon the foregoing, the Board finds, by a unanimous vote, that the Applicant's requests for variances are granted subject to the following staff conditions:

1. The Applicants shall make an application to the Office of Permits and Inspections, and follow all rules, procedures, and construction timelines as outlined regarding new construction.
2. The Applicants shall commence construction of the proposed improvements within eighteen (18) months of the date of the Board of Appeals approval.
3. This approval is only for the requested improvements and additions in this application and does not cover or permit any other changes or modifications. Items not specifically addressed in this application may require additional approvals.

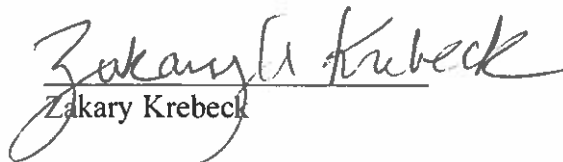
IT IS THEREFORE, this 19th day of October 2026, **ORDERED** that the Applicant's requests for variances are GRANTED.


Frank Cavanaugh, Chairman


Louis Dorsey, Jr., Vice-Chairman


Meredith Watters


Jeff Adelman


Zakary Krebeck