

IN THE MATTER OF	*	CASE NO. CAVR-25-8
ALI & KIMBERLY SHORAKA	*	VARIANCE REQUEST APPLICATION (Critical Area)

The Board of Appeals (the “Board”) held a hearing on October 27, 2025, in the Bradley Meeting Room, Court House, South Wing at 11 N. Washington Street, Easton, Maryland to consider the application of Ali (“John”) and Kimberly Shoraka (the “Applicants”). Applicants requested a Critical Area variance for the property at 5530 Leeward Ln., Tilghman, Maryland (“Property”). Chairman Frank Cavanaugh, Board Members Keith Prettyman, Liz Connelly, 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.

The Applicants requested a Critical Area Variance and a Non-Critical Area Variance to construct a new dwelling with an attached garage, screened porch, driveway, and a swimming pool on an empty lot. The Critical Area Variance request is to exceed the 15% maximum lot coverage limit by 3% to permit a total of 5,888 sf of lot coverage where only 4,915 would be permitted. The Non-Critical Area Variance request is to allow the front corner of the proposed attached garage to encroach the front-yard setback by 4'7".

Mr. Smith provided an overview of the application. The Applicants purchased the property in 2022. It was vacant. The lot is small for a lot in the VM zone, which is required to be one acre. The lot is 32,767 sf. The lot also has a Critical Area Limited Development Area (LDA) designation, which further limits development. Applicants have made significant efforts to reduce necessary improvements below the required 15% lot coverage requirement because of the lot's small size.

The lot is also an unusual shape. It is narrow on the portion of the property that abuts the lane, which requires a long driveway (impervious surface coverage) to reach the home. State Critical Area guidelines do not allow for alternative driveway materials to be considered pervious, even though they are considered so commercially. The Applicants have worked vigilantly with an architect/designer to achieve the minimum coverage necessary for the dwelling improvements and pool. The pool has been deemed a necessity for Mr. Shoraka as an accommodation for a medical condition and there are no accessible pools for him in the area.

The Applicants sought to reconstruct the dwelling as a single story for ease of mobility as they age. They altered the plans, and the structure will be a two-story home to help reduce lot coverage. The proposed pool is 40 x 10, which is considered a minimal amount for the function of swimming laps.

Applicants contend that the garage is minimal. It will also be used as storage since the lot coverage requirements will not allow for a shed. The Applicants have proposed a “track driveway,” which reduces its width and allows for less lot coverage. The turn around at the end of the driveway will be critical since it is a track driveway.

County Planner Andrew Nixon testified that, in 2019, when the VM zone came into existence, and when this lot was already developed, driveways could be considered pervious. He testified that the subdivision was created in 1978. This lot was able to be created in 2003 because public sewer became available. In 2019, the zoning changed, along with the lot size and coverage requirements, which made this lot and its size nonconforming.

Applicants and Board members discussed potential ways to reduce lot coverage even further so that the Critical Area variance requests are undeniably the minimum necessary. The Applicants agreed that the pool can be reduced to an 8’ wide pool and still maintain its functionality for lap swimming. It was agreed that outdoor steps could be reduced to 6’ width. The Board found that the proposed landing can, in fact, be pervious. With these reductions and adjustment, the Board agreed that the variance could be considered for 407 sf above permissible lot coverage, as opposed to the original request.

The Applicants will also be required to perform Buffer mitigation for the additional lot coverage.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

All Board members have visited the site, and this decision is based upon the Board’s observations, as well as the testimony and written responses submitted by the Applicant.

The Board addresses the standards for a Non-Critical Area variances set forth in the Talbot County Code, § 190-58.3. The variance request is to allow the front corner of the proposed attached garage to encroach the front-yard setback by 4’7”. The Board notes that, if the variance were not granted, the structure would have to be placed closer to the Buffer, which is not compatible with the spirit of the Critical Area law. This request could also be approved administratively if it were not made in conjunction with the Critical Area variance request.

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 Property has a narrow pipestem. Buildable area on the lot is near the rear of the Property. The VM zoning district has a 100-foot minimum lot width requirement that increases the standard 25-foot front yard setback to approximately 210-feet. The unique shape and lot size leaves only 7,885 sf of buildable area, which restricts improvement on the Property.

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

The lot was created by subdivision in 2003. The availability to connect to public sewer eliminated the need for a Septic Disposable Area and allowed for the smaller lot size to be approved at that time. In 2019, the required lot size increased when the lot was changed to a VM zoning designation. The Applicants purchased the Property in 2022 with the nonconforming nature already in existence.

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

The Board finds that the request is not made for lack of knowledge or profitability. The Applicants seek to improve their home and amenities within the confines of the unique lot size and shape.

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

The Board finds that the request is not contrary to public interest. It will not detriment other properties and is consistent in character with the surrounding neighborhood.

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

The proposed dwelling will encroach the extended setback by 4.7 feet with 88.4 sf within the setback. Due to the constraints of the lot coverage, and the medical necessity for a lap pool, the proposal is the minimum amount necessary.

The Board addresses the standards for a Critical Area variance set forth in the Talbot County Code, § 190-58.4. The Board is persuaded by the fact that the lot is nonconforming and is an unusual size and shape. Further, the unique shape of the lot requires a long driveway to access the dwelling structure and, when the lot was created, lot coverage could consider pervious driveway materials.

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 unique shape of the lot creates a small building envelope for the VM zoning district. The distance of the building envelope from the lane requires the driveway to be significantly longer than most properties of that size and Critical Area guidelines do not allow for consideration of pervious driveway materials. The driveway and parking area uses approximately 25% of the allowable lot coverage of 15%. The size of the proposed dwelling is consistent with other homes in the area. The pool is necessary for medical reasons, and the Applicants have agreed to reduce the pool width to 8', which results in a pool that is just functional enough for its intended purpose of lap swimming.

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 requested improvements would not require a variance if not for the unique size and shape of the Property that falls below the required lot size in the VM zoning district and is non-conforming. A dwelling, pool, deck, and garage are also common features in the zoning district and neighborhood.

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 is granting a minimal Non-Critical Area variance for the portion of the garage that will not meet the setback requirements. Otherwise, the proposed improvements are entirely consistent with other properties in the zoning district that are not confined by nonconforming property size.

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 requested variance is necessary because of the unique lot size and shape. The Board finds that the requested pool is necessary for medical rehabilitation purposes as described in a letter submitted by the Applicant's medical provider. The driveway is necessary, and the Applicants have reduced it to a track driveway to reduce lot coverage.

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 lot is undeveloped. The Applicants will be required to mitigate at a 1 to 1 ratio of plantings within the Buffer. The Board finds that the improvements will not adversely affect water quality or habitat.

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

The Board and Applicants, during the hearing on this matter, exhausted the ways in which improvements can be reduced to not exceed the minimum adjustment necessary to relieve the unwarranted hardship. The Applicants have agreed to reduce step width and pool width to achieve the minimum adjustment necessary. The Applicants have already taken steps to achieve the minimum adjustment necessary, such as altering the dwelling plan and reducing the driveway imprint.

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.

Documents on Record

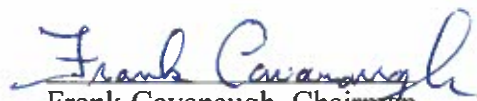
1. Application for a Critical Area variance.
2. Tax Map with subject property highlighted.
3. Notice of public hearing for advertising.
4. Newspaper confirmation.
5. Notice of public hearing with list of adjacent property owners attached.
6. Critical Area variance standards.
7. Non-Critical Area variance standards.
8. Staff Report by Andrew Nixon.
9. Sign maintenance agreement.
10. Critical Area Commission Comments.
11. Authorization letter.
12. Independent Procedures Disclosure and Acknowledgement Form.
13. Aerial photos.
14. Elevation plans.
15. Floor plans.
16. Letter from John Hopkins, dated August 4, 2025.
17. Critical Area Lot Coverage Computation Worksheet.
18. Site Plan from Fink, Whitten & Associates, LLC, dated August 9, 2024.
19. Applicant hearing Ex. 1 (revised proposal drawing).

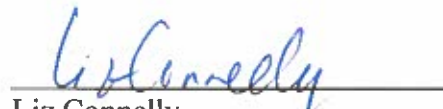
Mr. Krebeck moved to approve the Non-Critical Area Variance. Mr. Prettyman seconded the motion, and it was unanimously approved. Mr. Krebeck moved to approve a Critical Area Variance for a total lot coverage amount of 407 SF above the allowable lot coverage with the additional condition that the Applicants will reduce the width of proposed steps to 6'. Mr. Prettyman 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 a variances are granted subject to the following additional 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 comply with Critical Area Law and shall complete a Buffer Management Plan that complies with all requirements of the Critical Area Law.
3. The Applicants shall commence construction of the proposed improvements within eighteen (18) months of the date of the Board of Appeals approval.
4. 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 25th day of November 2025, **ORDERED** that the Applicant's requests for variances are GRANTED.


Frank Cavanaugh, Chairman


Liz Connelly


Keith Prettyman


Jeff Adelman


Zakary Krebeck