

IN THE MATTER OF	*	CASE NO. CAVR-26-4
CHAD AND STEPHANIE NAGEL	*	VARIANCE REQUEST APPLICATION (Critical Area and Non-Critical Area)

* * * * *

STATEMENT OF THE CASE

SUMMARY OF TESTIMONY

Mr. Smith testified that the Applicants purchased the Property in 2020. He explained that the Applicants have a large family and frequently host large group events and church congregation gatherings on the Property. The requested residential improvements are intended to safely and adequately accommodate these gatherings.

Mr. Smith noted that the primary structures on the Property existed within the Buffer prior to the enactment of the Critical Area law. The County Planning & Zoning Department has

certified these structures as legally nonconforming. Ms. Dayton corroborated this history, testifying that she had personally performed architectural work on the detached garage during the 1980s. Beyond the historic, nonconforming configuration of the improvements, Mr. Smith described the Property itself as uniquely and exceptionally narrow, creating a physical hardship that restricts compliance with standard setbacks.

Addressing the specific components of the application, the Applicants explained that the waterside covered patio is needed to shield from outdoor elements. Only a single corner of the patio will encroach into the Buffer. Regarding the proposed connection between the primary residence and the detached garage, the Applicants explained that the garage is to be utilized, among other typical functions, as living space for relatives and guests, necessitating a climate-controlled walkway for safety and comfort.

The Applicants further requested variances for a raised patio and steps to establish a stable structural transition and separation between the primary patio and the existing pool area. The dimensions of this raised patio were proposed to accommodate their frequent large assemblies.

The Board noted that documentation from County staff and the Critical Area Commission indicated that the original seven-variance proposal failed to reflect the minimum adjustment necessary to alleviate the underlying hardship. In response, the Applicants explained that the location of the proposed patio and garage-connection improvements were entirely dictated by the rigid footprint of the existing, historic structures and the home's internal floor plan. The Applicants further noted that removing existing lot coverage from other portions of the Property was structurally unfeasible. They contended that environmental quality would not be adversely affected, as the improvements would not extend further into the Buffer than the existing nonconforming structures.

Following an extended dialogue with Board members regarding potential layout alternatives, the Applicants acknowledged the Board's concern that the relief sought was not yet minimized. To address these concerns, the Applicants requested a continuance. The Board granted the request and rescheduled the matter, adjourning the hearing to June 15, 2026.

The public hearing resumed on June 15, 2026. Mr. Smith and Ms. Dayton presented a formal "Summary of Revisions," which substantially scaled back the proposed lot coverage and increased the setbacks from the MHW line. The revised plan realigned the raised patio to sit flush with the existing patio footprint. The proposed climate-controlled connection between the house and the garage was successfully relocated entirely outside of the Buffer, save for a minor portion of a pre-existing pathway. Overall, the steps, patios, and associated structural footprints were drastically reduced in scope to minimize Critical Area impacts.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

All members of the Board visited the site to evaluate the topography and the layout of the existing improvements. This decision is based upon the Board's visual observations, the testimony presented at the hearings, and the documentary evidence submitted into the record.

The Board finds that the Applicants have demonstrated that a literal enforcement of the Critical Area regulations would result in an unwarranted hardship. Following the June 15, 2026,

continuance, the Applicants submitted modified, scaled-back plans that significantly minimized impacts to the Shoreline Development Buffer. The Board is satisfied that these substantial revisions achieve the necessary relief while strictly adhering to the principle of minimum variance.

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 the Property exhibits unique environmental and geometric constraints. The lot is exceptionally narrow and bounded by water on multiple sides, featuring a stream, a cove, and tidal wetlands along its northern property line, and a tidal creek along its eastern property line. Because of these confluent water features, the 100-foot Shoreline Development Buffer blankets a vast majority of the buildable real estate. Furthermore, the existing primary dwelling and detached garage were constructed prior to the implementation of the Critical Area law and are legally nonconforming. Any reasonable improvement or expansion is nearly impossible without variance relief. Denying the right to make reasonable alterations to this uniquely constrained, historic footprint would impose 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 enforcement of the Critical Area restrictions would deprive the Applicants of rights commonly enjoyed by similarly situated property owners in Talbot County. The existing dwelling is long-established and legally nonconforming within the Buffer. Property owners throughout the zoning district with similarly nonconforming, historic parcels could be granted the right to perform minor, reasonable residential upgrades, modernizations, and safety improvements, on a case-to-case basis.

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 finds that granting the requested variances, as amended, does not constitute a special privilege. The Talbot County Code establishes a framework to consider the expansion and modification of legally nonconforming structures on a case-by-case basis. Because of the historic configuration of the existing home and detached garage, any expansion or connection outside of the Buffer is limited to the front yard, which would fail to provide a functional connection. The amended layout confines the development to pre-existing disturbed areas and path alignments. Granting a variance to allow reasonable residential connectivity and outdoor shelter on an environmentally constrained lot is consistent with treatment afforded to other nonconforming properties.

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 Board finds that the circumstances driving this request are inherent to the land and its existing structures, not the actions of the Applicants. The primary improvements were made by a previous owner long before the adoption of current Critical Area regulations. While an after-the-fact request was filed for a 15 square foot generator pad, the broader spatial hardship arises from the pre-existing, legally nonconforming layout of the site and the unusual narrowness of the lot. The application does not stem from any conditions on neighboring properties.

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 Board finds that the variances, as extensively amended and downscaled on June 15, 2026, will not adversely affect water quality or habitats. By shifting the bulk of the construction outside of the Buffer and realigning the raised patio with the existing patio footprint, no new structures or improvements will encroach closer to the MHW line than the pre-existing nonconforming structures. The spirit and intent of the Critical Area Program are preserved through strict mitigation conditions, including mandatory native plantings, and the fact that the total net increase in Buffer lot coverage was slashed from the originally proposed 1,237 square feet down to a nominal 114 square feet.

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

The Board finds that the revised proposal represents the minimum adjustment necessary. The initial submission was opposed by County staff and the Critical Area Commission as excessive. However, through the continuance process, the Applicants re-engineered the project: they withdrew the hot tub and concrete pad requests within the close-in Buffer, relocated the climate-controlled walkway almost entirely outside the Buffer, and shrunk the proposed raised patio and steps by several hundred square feet. The remaining 114 square feet of net lot coverage increase is the technical minimum required to bridge the existing house and garage footprints and provide minimal overhead shelter.

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 criterion 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. Staff Report.
8. Sign maintenance agreement.
9. Critical Area Commission Comments.
10. Authorization letter.
11. Independent Procedures Disclosure and Acknowledgement Form.
12. Aerial photos.
13. Elevation Plans.
14. Floor Plans.
15. Lot Coverage Sheets.
16. Request for Planning Officer Determination – RTPO-24-29 with attachments.
17. Photos submitted by Maddie Zaprowski.
18. Critical Area Violation/Building Code Violation/Order to Abate.
19. Assessment of Civil Penalty.
20. Site Plan.
21. Receipt for Plantings, dated 4/15/26.
22. Email from Elizabeth Olavsrud, dated 4/27/26.
23. Applicant Exhibit “Summary of Revisions.”

Mr. Krebeck made a motion to approve the requests subject to staff conditions and subject to the revisions submitted by Applicant, which include:

- The construction of a covered patio and balcony addition on the east side of the existing dwelling will add 28 square feet of lot coverage in the Buffer (as opposed to 29 square feet as originally submitted).
- The construction of an addition with covered porch on the north side of the existing dwelling to connect the dwelling with the existing detached garage, will encroach to within 94’ of MHW (as opposed to 77’ as originally submitted) and will add 111 square feet (as opposed to 722 as originally submitted) of lot coverage within the Buffer.
- The construction of a raised patio with steps on the north side of the existing dwelling, which patio with steps will encroach to within 91’ of MHW (as opposed to 80’ as originally submitted) and will add 124 square feet of lot coverage within the Buffer (as opposed to 709 square feet as originally submitted).
- Applicants withdrew the request to construct a concrete pad and hot tub on the north side of the existing dwelling, which concrete pad and hot tub will encroach to within 79’ of MHW and will add 85 square feet of lot coverage within the Buffer. Instead, the construction of a concrete pad on the north side of the

existing dwelling, which pad will encroach to within 92' of MHW and will add 10 square feet of lot coverage in the Buffer.

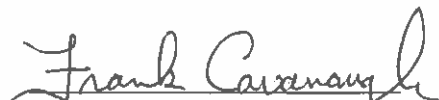
- The construction of one HVAC equipment pad (as opposed to two originally submitted) on the north side of the existing dwelling, which pad will encroach to within 94' of MHW (as opposed to 76' originally submitted).
- The proposed net increase in lot coverage within the Buffer is 114 square feet (as opposed to 1,237 originally submitted), which factors in the removal of certain existing landscaping that is located within the Buffer.

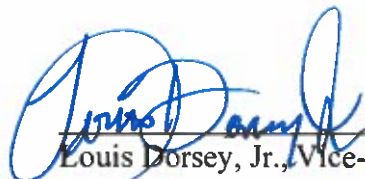
Mr. Adelman seconded the motion, and it was unanimously approved.

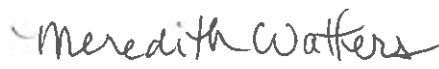
Based upon the foregoing, the Board finds, by a unanimous vote, that the Applicant's requests for variances are granted subject to the amendments noted above and the following conditions:

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 Applicant 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.

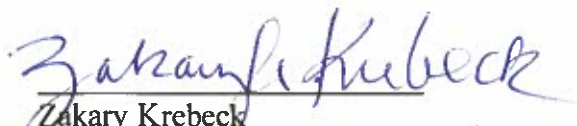
IT IS THEREFORE, this 14th day of July 2026, **ORDERED** that the Applicant's requests for variances are GRANTED.


Frank Cavanaugh, Chairman


Louis Dorsey, Jr., Vice-Chairman


Meredith Watters


Jeff Adelman


Zakary Krebeck