

IN THE MATTER OF	*	CASE NO. CAVR-25-5
EDWARD AND GILLIAN MEIGS	*	VARIANCE REQUEST APPLICATION (Critical Area)

The Board of Appeals (the “Board”) held a hearing on August 4, 2025, in the Bradley Meeting Room, Court House, South Wing at 11 N. Washington Street, Easton, Maryland to consider the application of Edward & Gillian Meigs (the “Applicants”). Applicants requested a Critical Area variance for the property at 6975 Pea Neck Rd., St. Michaels, Maryland (“Property”). Chairman Frank Cavanaugh, Vice Chairman Louis Dorsey, Jr., Board Members Meredith Watters, Jeff Adelman, Zakary Krebeck, and Board Attorney Patrick Thomas were present. Board Secretary Christine Corkell and Planner Andrew Nixon appeared on behalf of the County.

The Applicants requested a Critical Area variance of the 100-foot Shoreline Development Buffer (“Buffer”) to permit demolition of an existing 794 sf swimming pool located entirely within the Buffer at 54’ from Mean High Water (“MHW”), and to permit the construction of a 1,069 sf pool at 51’ from MHW.

The Applicants were represented by Zachary Casto , the contractor, from Coastal Pool. Mr. Casto testified that the pool replacement was necessary because of circulation issues with the existing pool. The Applicants also wish to alter the shape of the pool so that an automatic cover can be placed on it for safety reasons. Only rectangular shaped pools can accommodate an automatic cover, which is increasingly a common safety feature in lieu of, or in addition to, a fence surrounding the pool.

The unusual circumstance is the existing pool placement. The Applicants could move the pool further from the MHW but would be required to excavate an entirely new pool at 100 cubic yards of disturbed soil and requiring 100 cubic yards structural backfill of the entire pool, which would be a hardship and unnecessary disturbance. Doing so would also cost Applicants approximately \$10,000 more for pool and backfill materials.

Applicants contend in-kind replacement of structures within the Buffer are permitted under the ordinance and that a literal interpretation of the ordinance would deprive them of a replacement, which although not “in-kind” because of the size and shape, should be similarly

granted by variance. The grant of a variance, according to Applicants, will not confer a special benefit because other applicants in Talbot County have similarly had to obtain a variance to replace structures that already exist within the Buffer.

Applicants have not made any improvements and, thus, have not taken any action that requires the variance. Applicants are doing the minimum necessary to replace the pool by reducing impervious surface. The existing impervious surface and footprint of the pool are being utilized and are lessening the amount of impervious surface within the Buffer and moving the pool closer to the house. The project will not impact habitat or wildlife to the Applicant's knowledge.

Applicants also submitted written responses to the Critical Area variance standards, which the Board has reviewed and takes into account in rendering this decision.

County Planner Andrew Nixon testified that a true "in-kind" replacement of the pool would be permitted without a variance. Mr. Nixon also clarified that the overall lot coverage of this request will not change. The proposed pool will be bigger, but the patio will be reduced. Even if the pool size were reduced from 50' to 47', to be further from the MHW, a variance would still be required because the pool size is not in-kind.

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 Applicants. The Board finds that the existing swimming pool and patio are nonconforming and replacement of the pool, while not precisely in-kind, is necessary so that a rectangular pool cover can cover the pool, for safety reasons. The Board does find that the proposed pool location can be modified so that the edge of the pool does not encroach any closer to the MHW than the existing pool.

The Board finds that the Applicant's efforts to reduce coverage in the Buffer are beneficial and that significant efforts have been made to minimize impacts. Foremost, the Board is in support of this Application because the replacement pool is necessary for the safety of the Property for the benefit of the general public.

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 denial of a variance would result in an unwarranted hardship. The pool and patio are legally nonconforming. An in-kind replacement of the existing improvements would be approved without the need for a variance. The Board finds that replacement is necessary for safety reasons. Because the shape of the pool must be rectangular to install an

automatic cover (for safety reasons) in-kind replacement is not possible. The Applicants have made efforts to minimize impacts by reducing coverage in the Buffer.

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.*

Pools, patios, and other outdoor use areas are common features for homes in the Rural Conservation zoning district and other waterfront homes. While a new pool would not be permitted within the Buffer, this request is for a modest expansion of an existing, legal nonconforming pool. The result of the proposed project will result in an overall decrease in lot coverage in the Buffer area.

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 replacement pool and patio would be permitted to be replaced in-kind in the same location. The proposed reconfiguration includes the enlargement of the pool which requires this variance approval. Other similarly situated property owners could seek and obtain a variance under similar conditions upon satisfying the Board that the unwarranted hardship standard has been met.

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 Applicants have not created the need for the variance as the improvements that require replacement are legally nonconforming. This request is for a modest expansion of an existing, legal nonconforming pool that will not have any effect 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 intent of the Critical Area program is to protect resources and foster more sensitive development. The Board finds that the variance will not adversely impact water quality or any of the existing habitat. The overall coverage in the Buffer will be reduced because of this project as the applicant proposes to remove pervious surface that is adjacent to the pool within the Buffer.

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

The Board is satisfied that the Applicants have attempted to reduce impervious surface to minimize impacts to the Buffer. However, the Board also finds that the placement of the pool can be shifted so that it does not encroach further toward the MHW than the existing pool.

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. Staff Report by Andrew Nixon.
8. Sign maintenance agreement/sign affidavit.
9. Critical Area Commission Comments dated 3/26/25.
10. Authorization letter from Marc Meadows, dated 11/25/24.
11. Independent Procedures Disclosure and Acknowledgement Form.
12. Aerial photo, 2 pages.
13. Three photos of the dwelling, existing pool and patio.
14. Site Plan by Davis, Bowen, Friedel, Inc., project no. 4917.
15. Revised site plan submitted 7/23/25 by Davis, Bowen & Friedel, Inc., with attached email explaining revision.
16. Plans for pool.
17. Critical Area Lot Coverage Computation Worksheet.

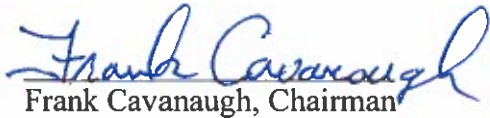
Mr. Adelman moved that the Applicant be granted a variance with the condition that the Applicants relocate construction of the pool edge so that it encroaches no further than the existing 54' distance from the MHW, as well as meeting Critical Area guidelines and subject to staff conditions. The motion was seconded by Mr. Krebeck. Based upon the foregoing, the Board finds, by a unanimous vote, that the Applicant's requests for a variance is granted subject to the following conditions:

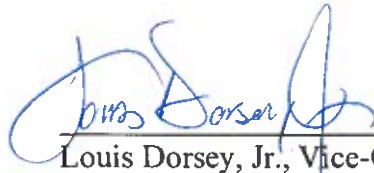
1. The Applicants shall commence construction of the proposed improvements within eighteen (18) months of the date of the Board of Appeals approval.
2. The Applicants shall comply with and address all Critical Area Commission requirements, including the completion of a Buffer Management Plan that complies with Critical Area Law. Also, as part of the Buffer Management plan, the Applicants will need to provide mitigation for any tree removal, if any, that is associated with the project.

3. The Applicants proposal shall be amended so that the pool edge encroaches no further than the existing 54' distance from the Mean High Water Line.


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.

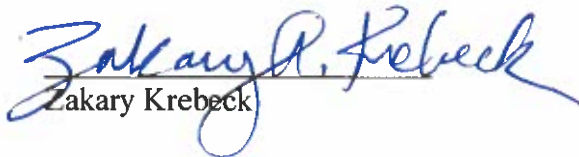
IT IS THEREFORE, this 28th day of August 2025, **ORDERED** that the Applicant's requests for a variances are GRANTED.


Frank Cavanaugh, Chairman


Louis Dorsey, Jr., Vice-Chairman


Meredith Watters


Jeff Adelman


Zakary Krebeck