

IN THE MATTER OF	*	CASE NO. VAR-25-3
EDWIN and	*	VARIANCE REQUEST APPLICATION
VANESSA GOMEZ		(Non-Critical Area)
* * * * *	*	* * * * *

STATEMENT OF THE CASE

SUMMARY OF TESTIMONY

Mr. Smith relied on the site plan to demonstrate that it would be a practical difficulty if not allowed to place the structure in the proposed location because there is no other reasonable place on the Property where it can be placed. As demonstrated on the site plan, the property is a unique triangular shaped property. The building envelope and existing improvements prevent

alternatives. The home dwelling is in the center of the Property. A septic reserve area occupies the East side. A well prevents construction on the West. The Building Code requires a setback of at least 10' from the home. There is mature vegetation on other areas of the Property.

The proposed location is best suited for vehicular access in and out of the garage structure that will be constructed. The zoning district requires a 50' setback. If the Property were smaller than 2 acres, the setback would be 25'. The property, with its unique shape and configuration, is more akin to a smaller property with 25' setback requirements.

The encroachment into the setback does not abut residential property. It abuts agricultural property and therefore, the request meets the spirit and intent of the setback requirement (to keep distance between residential structures).

Mr. Gomez confirmed the facts and opinions of Mr. Smith.

Planner Maddie Zaprowski testified that Property may not be used for commercial purposes. Board members visiting the site witnessed commercial vehicles on the foundation of the proposed structure.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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 building envelope of the Property is significantly limited by the unique features of the Property. The property is triangular and has a 50' setback on the front, side, and rear property lines. The eastern side of the property contains a sewage disposal system and mature trees. The western side that is not taken up by the 50' setback has a 30' drinking water supply well setback and more mature trees. There is also a required 10' separation between structures. To have access to the proposed accessory building for storing the owner's vehicles, the structure needs to be located near the existing gravel driveway. Additionally, placing it elsewhere on the property would result in further tree removal. Further, the side of the Property where the accessory structure is proposed abuts agricultural property with no residential structures in site. For these reasons, the Board finds that denying the variance would result in a practical difficulty.

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

The need for the variance is based on conditions and constraints of the property that were not caused by the Applicants. The Property is a unique shape, which limits its allowable building envelope more so than other properties of a comparable size within the same zoning district.

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

The Board has concerns that the accessory structure will be used to store commercial vehicles and, therefore, places a condition on this variance to ensure that a granted variance will not be used for profit. The Board is satisfied by the testimony given that the Applicants were not aware of the setback restriction.

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

Approval of the variance will have no impacts on adjacent or neighboring properties. The rear setback abuts an agricultural parcel with no dwelling.

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

The request for the proposed location is made, in part, because of setback requirements for the home, well, and septic area. It is also positioned to allow for vehicles to access the structure. The Board is satisfied that there is little adjustment that could avoid the variance request as submitted. The Applicants designed the request to meet the criteria for the variance and the requirements of the Permits and Inspections Department. County staff have determined that the request is the minimum amount necessary to proceed with the project as proposed in BP-24-198.

Documents on Record


1. Application for Non-Critical Area Application.
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. Non-Critical Area Variance Standards.
7. Staff Report
8. Sign Maintenance Agreement and picture of the signs posted.
9. Authorization letter.
10. Independent Procedures Disclosure and Acknowledgement Form.
11. Aerial Photos.
12. Site Plan by Davis, Bowen & Friedel, Inc.

13. Elevation Drawings.
14. Floor Plans.
15. Photos.

Mr. Krebeck moved that the variance be granted subject to staff conditions and the condition that the accessory structure shall not be used for business or commercial use. Mr. Adelman seconded the motion. Based upon the foregoing, the Board finds, by a unanimous vote, that the Applicant's request for variance is granted subject to the following conditions:

1. The Applicants shall amend the active Building Permit application (BP-24-198) through 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. The Applicants shall not use the Accessory Structure, which is the subject of this Variance, for business or commercial purposes.
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 9th day of December 2025, **ORDERED** that the Applicant's requests for a variance is GRANTED.


Frank Cavanaugh, Chairman


Meredith Watters

Liz Connelly

Liz Connelly


Jeff Adelman


Zakary A. Krebeck

Signature: 
Liz Connelly (Dec 9, 2025 11:42:02 EST)