

BEFORE THE TALBOT COUNTY BOARD OF APPEALS

IN THE MATTER OF * CASE NO. SPEX-22-3
ISLAND MARINE CONSTRUCTIONS, LLC * SPECIAL EXCEPTION AND VARIANCE
REQUEST APPLICATION

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The Board of Appeals (the “Board”) held a hearing on November 14, 2022 in the Bradley Meeting Room, Court House, South Wing at 11 N. Washington Street, Easton, Maryland to consider the application of Island Marine Constructions, LLC (the “Applicant”). The Applicant requested (1) a Special Exception for marine use and (2) a variance at 21774 Campers Circle, Tilghman, MD 21671. Chairman Frank Cavanaugh, Vice Chairman Louis Dorsey, Jr., Board Members Paul Shortall, Patrick Forrest, Zakary Krebeck, and Board Attorney Lance M. Young were present. Planner Bryce Yelton appeared on behalf of the County. Property owner is R & J Slips.

STATEMENT OF THE CASE

The Applicant requested a Special Exception use and Variance at 21774 Campers Circle, Tilghman, Maryland. The Special Exception is required for Marine use in the Village Mixed (VM) zoning district. A variance is required to permit a 10’ x 12’ storage shed to be located within 32.4’ of the required 50’ State Highway setback.

SUMMARY OF TESTIMONY

Attorney Zach Smith appeared on behalf of the Applicant. The Applicant seeks a special exception to use the property for marine purposes and seeks a variance in order to place a 10’ by 12’ storage shed. The subject property is in the VM zoning district where the required side setback is 10 feet. Setbacks from the State highway are 50 feet. According to Mr. Smith, most properties and buildings in the immediate area do not meet the required 50’ State highway setback. The property is only 60’ wide, therefore, no structure could be placed on the property without a variance.

The Planning Commission gave a favorable recommendation to the requested relief. Highlighted comments from the Planning Commission are that the property is located on a working waterfront. The marine use is precisely the type of use contemplated within the Tilghman Plan.

Jason Wilson, a Member of the Applicant, testified that Island Marine Construction, LLC is a marine construction business. The Applicant would like to use the property for construction deliveries approximately 4-5 times a month. Construction materials that are unloaded at the property would remain onsite for up to two weeks before being used on construction projects. The activity will not bring significant increased traffic to the site. The site will not directly serve

customers and will have limited staff. The site consists of three slips, a bulkhead, and pavement. Materials will be loaded and unloaded from barges by a forklift.

The Applicant intends to access its property via State Highway Route 33. There is no need for the Applicant to enter the nearby residential area. Existing parking is adequate for the intended use of the property.

Bryce Yelton summarized comments by the Critical Area Commission, which had some concern of materials being stockpiled by the water within the Critical Area buffer. Materials unloaded on the property will not be stockpiled for long periods of time. The stockpiling that does occur will be on existing impervious surface and will not result in additional stormwater runoff.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Special Exception

The Board finds by a preponderance of the evidence that the Application should be approved for marine use, as a Special Exception, in the VM District.

1. The use will be consistent with the purposes and intent of the Talbot County Comprehensive Plan. The Planning Commission determined, and this Board agrees, that the property is suitable for maritime activity and use. There is no better use for the property that what is being requested by the Applicant. Other nearby properties are also used for maritime purposes. The Application is consistent with the Comprehensive Plan in that it supports the strengthening of Talbot County's maritime culture.

2. The use will comply with the standards of the zoning district in which it is located, except as those standards may have been modified by the granting of a variance. The property will comply with the standards of the zoning district with the exception of the setback variance request that is being granted by this Board. The proposed variance is modest as it will permit a 10' x 12' shed on the property. The property would require a variance for the construction of any structure due to its size and dimensions.

3. The scale, bulk and general appearance of the use will be such that the use will be compatible with adjacent land uses, with existing and potential uses in its general area, and will not be detrimental to the economic value of the neighboring property. The use is consistent and compatible with other nearby marine uses. Its currently a waterfront property with boat slips. The property is paved and suitable for temporary stockpiling of marine construction materials. There is no evidence to suggest that the proposed use will negatively affect economic value of the neighboring properties.

4. The use will not constitute a nuisance to other properties and will not have significant, adverse impacts on the surrounding area due to trash, odors, noise, glare, vibration, air and water pollution, and other health and safety factors or environmental disturbances. The Special

Exception will permit increased use of the site for the purpose of loading and unloading marine construction supplies. The proposed storage shed and temporary stockpiling area will provide adequate area for the materials. The materials will be stockpiled on a temporary basis to be used for planned construction projects. Due to the proximity to residential neighborhood, the Board recommends that the Applicant be refrained from using residential roadways and that delivery times be limited from 6:30 am and 5:00 pm with no deliveries permitted on Sundays.

5. The use will not have a significant adverse impact on public facilities or services, including roads, schools, water and sewer facilities, police and fire protection or other public facilities or services. In fact, the proposed use will have no expected effect on public utilities.

6. The use will not have a significant adverse effect upon marine, pedestrian or vehicular traffic. The property will continue to utilize the same entrance that exists on the site. Marine traffic will be minimal and consist of the occasional barges that are loaded and unloaded for the marine use of the property.

7. The use will not produce traffic volumes, which would exceed the capacity of public or private roads in the area or elsewhere in the County, based on the road classifications established in Chapter 134, the Talbot County Roads and Bridges Ordinance, and other applicable standards for road capacity. There will be minimal vehicular traffic increases resulting from the grant of a Special Exception.

8. Any vehicle access to proposed off-street parking areas and drive-in facilities will be designed to minimize conflicts between vehicular, bicycle and pedestrian traffic and to minimize impacts on adjacent properties and on public or private roads. In addition, any resulting commercial and truck traffic should not use a residential street nor create a hazard to a developed residential area. Access to the property will not be altered. Vehicles coming onto the property will utilize access from State Highway Route 33. The property will not be utilized by customers or the general public. Parking requirements only require one space to be provided for the business and the Applicant states that parking is sufficient for its business purposes.

9. The use will not significantly adversely affect wildlife with respect to the site's vegetation, water resources, or its resources for supplying food, water, cover, habitat, nesting areas, or other needs of wildlife. The property is currently paved with impervious cover and a bulkhead. The Special Exception will not result in additional improvements to the property that adversely affect natural resources.

Variance

The Board finds that the Applicant has satisfied the standards for granting a variance.

A. Unique physical characteristics exist such that literal enforcement of the setback requirements would result in practical difficulty or unreasonable hardship in enabling the Applicant to develop the property. The property is .31 Acres in size, is 60' wide, and is bordered by a State highway. There is a 50' State highway setback. Any improvement on the property would require a variance with these property characteristics.

B. The need for a variance is not based upon circumstances which are self-created or self-imposed. The lot has remained in its current configuration for many years.

C. The variance is not requested for greater profitability or lack of knowledge of the restrictions. The variance is being requested so that the Applicant can have a modest storage shed placed on the property related to its marine contracting business. The shed will be used for on-site storage and paperwork related to the business. The Board finds that this request is reasonable.

D. The variance is not contrary to the public interest and will not be a detriment to adjacent or neighboring properties. The property has already been used for similar purposes over the years. The storage shed will not increase activity on the site or impact neighboring properties.

E. The variance will not exceed the minimum adjustment necessary to relieve the practical difficulty or unreasonable hardship. The variance is requested for the required 50' State highway setback. The variance is the minimum relief necessary to place a reasonably sized structure for storage associated with the property owner's business.

EXHIBITS

The Applicant submitted the following exhibits on the record during the hearing:

1. A letter in support of the Application from the Planning Commission hearing.

Mr. Krebeck moved that (1) the Applicant be granted the requested variance and (2) that the Applicant be granted a Special Exception subject to staff conditions and with limited hours of operation. The motion was seconded by Mr. Forrest. Based upon the foregoing, the Board finds, by a unanimous vote that the Applicant's requests are granted subject to staff conditions and limited hours of operation.

1. The applicant 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 this Decision set forth below.

3. Deliveries of materials for marine contracting use shall be restricted to Monday through Saturday from 6:30 am and 5:00 pm with no deliveries permitted on Sundays.

4. All commercial traffic will access directly from Rte. 33 to the site and not use the residential portion of Camper Circle.

IT IS THEREFORE, this 29th day of November, 2022, **ORDERED** that the Applicant's requests for a variance is GRANTED.


Frank Cavanaugh, Chairman

Unavailable for Signature
Louis Dorsey, Jr., Vice-Chairman


Paul Shortall, Jr.


Zakary A. Krebeck


Patrick Forrest

