

**BEFORE THE TALBOT COUNTY BOARD OF APPEALS**

IN THE MATTER OF \* CASE NO. SPEX-24-5

JAMES E. BLIZZARD, II \* SPECIAL EXCEPTION

\* \* \* \* \*

The Board of Appeals (the “Board”) held a hearing on December 16, 2024, in the Bradley Meeting Room, Court House, South Wing at 11 N. Washington Street, Easton, Maryland to consider the application of James E. Blizzard, II (the “Applicant”). The Applicant requested a Special Exception for a property located at 10877 Lewistown Rd., Cordova, Maryland (“Property”). Chairman Frank Cavanaugh, Vice Chairman Louis Dorsey, Jr., Board Members Patrick Forrest, Jeff Adelman, Zakary Krebeck, and Board Attorney Lance M. Young were present. Board Secretary Christine Corkell and Andrew Nixon, Planner, appeared on behalf of the County.

**STATEMENT OF THE CASE**

The Talbot County Code § 190-33.24 allows for the construction of an accessory storage building, as a special exception, where there is no principal use established for the lot. The Board of Appeals may approve the special exception of a lot where there is no imminent plan for the establishment of a principal use.

The Applicant requested a special exception to construct an accessory structure storage building on a lot where there is no imminent plan for the establishment of a principal use.

**SUMMARY OF TESTIMONY**

The Applicant was represented by Attorney Zach Smith. He explained that the Applicant, with his wife, live on a four-acre property adjacent to the Property. The Applicant has a need to construct a shop/storage structure on his adjacent residential property but is unable to do so due to its configuration.

The Applicant purchased the Property from the Maryland Department of Transportation. After purchasing the Property, Applicant learned that it contains substantial environmental contamination and is now registered as a Brownfield site. Applicant cannot combine the Property with his residential property because, to do so, it would burden the residential property with environmental liabilities that are assumed by the existence of the Brownfield designation.

Environmental contamination makes growth of valuable vegetation on the Property difficult. Storm water management is required to be addressed with the building permit, and it will be performed by Land Planner Elizabeth Fink.

The Applicant contends that the grant of special exception will be consistent with the Comprehensive Plan because it will not disrupt the rural character of the area and that the building will be similar to other buildings in the area that are associated with residential and/or agricultural uses. It will not be a nuisance to surrounding properties or have any impact on public facilities and services. It will not have an adverse impact on marine, pedestrian, or vehicular traffic or produce traffic volumes of any kind. Vehicular access has already been established. The building will also comply with all other zoning standards.

Travis Hutchison is the only adjacent land owner that will be in sight of the proposed structure. Mr. Hutchison testified in support of the special exception stating that the Property is the perfect location for this kind of building.

The Maryland Department of Transportation and Planning Commission each issued favorable recommendations for the special exception.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

All of the Board members visited the site and the decision to grant a special exception, in part, is due to the fact that it is apparent the lot does not have the ability to be used for residential, agricultural, or any other principal use. The provision that allows this Board to grant a special exception for an accessory structure without a principal use is ideally suited for this request.

Under 42 USC § 9601(39) of the United States Code, the federal government defines a brownfield site as: "Real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant." The environmental contamination that burdens the Property makes it unsuitable for residential or agricultural uses that are typical in the area where the Property is situated. Contamination on the Property also means that combining it with the Applicant's residential property is untenable.

The Board also finds that the addition of the structure will improve the Property aesthetically. If not for the storage structure, there is no other practical use for the Property.

The Board finds by a preponderance of the evidence that the request satisfies the requirements of the Talbot County Code, § 190-56.2.

1. The use will be consistent with the purposes and intent of the Talbot County Comprehensive Plan. Under the Plan (Rural Reserve Planning Area Policy 2.22), "open space, agriculture, forestry, and low density single-family detached residential uses are the preferred uses in the Rural Reserve Planning Area." However, due to environmental contamination of the Property, it cannot be used for either agriculture or a residence. The accessory structure will not be incompatible with these uses in the surrounding area.

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. Residential

storage buildings are a permitted accessory use in the AC zoning district if they meet all bulk standards and setbacks. The code allows for the proposed structure to be built on a lot where there is no imminent plan to establish a principal use with the approval of the special exception.

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 proposed structure is common for the area. It is surrounded by farmland and few homes in the immediate area.

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 features (resulting from the structure). Travis Hutchison, the immediate neighbor, is in support of the special exception.

5. The use will not have significant impact on public facilities or services, including roads, schools, water and sewer facilities, police and fire protection or other public facilities or services.

6. The use will not have a significant, if any, adverse effect upon marine, pedestrian or vehicular traffic.

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.

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.

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. Vegetation is scarce on the Property and no trees will be removed to construct the structure.

10. Nearby agricultural uses will not be impacted.

#### **Documents on Record**

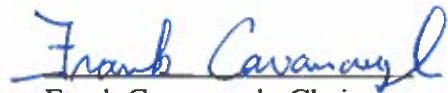
1. Application for Special Exception.
2. Tax Map with subject property highlighted.
3. Notice of public hearing for advertising.
4. Newspaper confirmation.
5. Notice of public hearing with list of adjacent property owners attached.
6. Special Exception standards.
7. Staff Report, prepared by Andrew Nixon.


8. Planning Commission recommendation and revised Planning Commission recommendation.
9. Sign maintenance agreement/sign affidavit.
10. Authorization letter from David Nagel, Chief Operating Officer.
11. Independent Procedures Disclosure and Acknowledgement Form.
12. Aerial photo.
13. Site plan.
14. Elevations.
15. Floor Plan.
16. Brownfield Master Inventory.
17. Comments from Zach Smith and Andrew Nixon.
18. Letter from MDOT, Shawn Schmelzer dated 11/14/24.

Mr. Krebeck moved to grant the Special Exception subject to the conditions set forth herein. The motion was seconded by Mr. Forrest. Based upon the foregoing, the Board, by unanimous vote, grants the Special Exception subject to the following conditions:


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 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 **8th** day of January 2025, **ORDERED** that the Applicant's request for modification of the special exception is **GRANTED**.

  
 Frank Cavanaugh, Chairman

  
 Louis Dorsey, Jr., Vice-Chairman

  
 Patrick Forrest

  
 Zakary A. Krebeck

  
 Jeff Adelman