

BEFORE THE TALBOT COUNTY BOARD OF APPEALS

IN THE MATTER OF * CASE NO. VAR-22-2
MICHAEL J. EBER * VARIANCE REQUEST APPLICATION
* * * * *

The Board of Appeals (the “Board”) held a hearing on September 19, 2022 in the Bradley Meeting Room, Court House, South Wing at 11 N. Washington Street, Easton, Maryland to consider the application of Michael J. Eber (the “Applicant”). The Applicant requested a variance at 13797 Ocean Gateway, Queen Anne, MD 21657. Chairman Frank Cavanaugh, Vice Chairman Louis Dorsey, Jr., Board Members Paul Shortall, Jeff Adelman, Zakary Krebeck, and Board Attorney Lance Young were present. Brennan Tarleton, Acting Planning Officer for the Talbot County Planning and Zoning Division, Board Secretary Christine Corkell and Planner Elisa Deflaux appeared on behalf of the County.

STATEMENT OF THE CASE

The Applicant requested a variance to construct a 32’ long by 40’ wide residential storage building with a 40’ wide by 4’ deep concrete apron. The variance is for a reduction of the required 150’ special setback from the State highway to 60.9’. The property is in the AC zoning district where the standard front setback is 50’, however, supplemental setbacks occur on parcels adjacent to State highway.

SUMMARY OF TESTIMONY

Elizabeth Fink, a Land Planner at Fink, Whitten & Associates, appeared on behalf of the Applicant. The purpose of the variance request is that Mr. Eber desires to build a structure for the purpose of storing, and working on, automobiles. Mrs. Fink testified that the process began with a lot line adjustment that eliminated former parcel 34 and merged it into parcel 12 to create one parcel. According to Mrs. Fink, the existing dwelling on the parcel was built prior to the 1974 ordinance. The existing dwelling is nonconforming as it is 56.4’ from the State highway at its closest point and the proposed structure will be in line with the existing dwelling. The proposed structure is also in line with other structures on neighboring lots in the subdivision.

According to Mr. Eber, the Health Department has evaluated the septic capacity. The Health Department approves the structure as long as there is no heated or air conditioned space.

Chairman Cavanaugh observed, while visiting the site, that the proposed setback is consistent with other dwellings and structures in the subdivision that are in line with the Applicant’s property.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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. This property, and others in the same subdivision, are nonconforming and structures cannot meet the 150' special setback from State highway. The property is approximately 160 feet deep at its greatest point in depth. The 150 foot setback requirement from major highways was first adopted under the 1974 ordinance. This parcel and surrounding parcels were created in the early 1950s.

B. The need for a variance is not based upon circumstances which are self-created or self-imposed. The lot was created, and structure built prior to the current zoning ordinance and setback requirements. The Applicant purchased the property in 2002 and has not made any changes to necessitate this variance request.

C. The variance is not requested for greater profitability or lack of knowledge of the restrictions.

D. The variance is not contrary to the public interest and will not be a detriment to adjacent or neighboring properties. The existing dwelling on the property, and the proposed structure, are in line with other structures within the same subdivision.


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


Mr. Adelman moved that the Applicant be granted the requested variance subject to staff conditions and the motion was seconded by Mr. Krebeck. Based upon the foregoing, the Board finds, by a unanimous vote that the Applicant's request for a variance is granted subject to staff 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 this Decision set forth below.

IT IS THEREFORE, this 4th day of October, 2022, **ORDERED** that the Applicant's requests for a variance is GRANTED.


Frank Cavanaugh, Chairman


Louis Dorsey, Jr., Vice-Chairman


Paul Shortall, Jr.


Zakary A. Krebeck

Unavailable for Signature

Jeff Adelman