

IN THE MATTER OF	*	CASE NO. CAVR-25-6
SEVENTH HAVEN LLC	*	VARIANCE REQUEST APPLICATION (Critical Area)

The Board of Appeals (the “Board”) held a hearing on September 29, 2025, in the Bradley Meeting Room, Court House, South Wing at 11 N. Washington Street, Easton, Maryland to consider the application of Seventh Haven LLC, c/o Stephanie Hoopes and John Jenkins (the “Applicant[s]”). Applicant requested a Critical Area variance for the property at 8038 Leehaven Rd., Easton, Maryland (“Property”). Chairman Frank Cavanaugh, Vice Chairman Louis Dorsey, Jr., Board Members Keith Prettyman, Jeff Adelman, Zakary Krebeck, and Board Attorney Lance M. Young were present. Board Secretary Christine Corkell and Planner Andrew Nixon appeared on behalf of the County.

The Applicant requested eight (8) Critical Area Variances of the 100-foot Shoreline Development Buffer (the, "Buffer") to permit the following:

- ## SUMMARY OF TESTIMONY

The applicant, Seventh Haven LLC, represented by Attorney Ryan Showalter, sought eight (8) Critical Area Variances from the 100-foot Shoreline Development Buffer ("Buffer"). The principals of the applicant, Stephanie Hoopes and John Jenkins, provided testimony. Mr. Showalter emphasized that the requests resulted from over a year of coordination with County staff and were reasonable modifications to a pre-existing house. The overall gross floor area added would be less than 1,000 square feet with little change to the structure.

County Planner Andrew Nixon confirmed that the mitigation plan had been approved, offering a 4 to 1 mitigation ratio for the after-the fact variance and a 3 to 1 mitigation for all other granted variances.

Mr. Jenkins and Ms. Hoopes testified about the property's condition upon purchase, noting issues with a leaking septic system and the house itself, as well as shoreline erosion threatening oak trees. They installed a Best Available Technology (BAT) septic system and intend to live in the home permanently after necessary repairs and updates. Ms. Hoopes stressed the applicants' appreciation for environmental requirements.

Mr. Showalter highlighted that the architectural design was minimal, intended to protect and preserve lot coverage, and that existing oak trees to the south would be preserved. The applicants submitted a planting plan and written responses to the variance criteria.

Applicants provided specific testimony and argument concerning the specific variance requests:

Request 1: 20'4" x 2'11" addition to the north side of the dwelling at 50'4" from MHW

Applicants testified that the addition is necessary for a new porch and second-floor space, which provides a proper entrance to the house. Hoopes testified that the current entrance is through the kitchen, which will be converted into a bedroom.

Andrew Nixon noted a mistake in the Staff Report, which listed the 20'4" x 2'11" dimension as the addition, when it is actually the dimension for the second-floor bump-out. The Staff Report failed to list the first-floor covered porch dimensions.

Mr. Showalter clarified that the addition is for a 23' x 8' porch addition on the first floor. A variance is not required for the second-floor bump-out because it does not extend further than the first floor's footprint.

Request 2: 30'9" x 23'4" addition to the south side of the dwelling at 61'10" from MHW

Applicants testified that the addition will become a new kitchen and mud room. Mr. Showalter stated that it will be pulled back so that it is no closer to MHW. The second floor will include a new bedroom and reconfiguration of an existing bedroom.

The County staff supports this request.

Request 3: 2' x 6' staircase off the south end of the proposed southern addition at 73'5" from MHW

Mr. Showalter later stated that this variance request is not necessary because the staircase is included in the scope of another variance request.

Mr. Nixon suggested the request may not be necessary as it involves stairs that are part of another addition.

Request 4: 2' x 6' staircase and 3' wide/33 square foot (SF) walkway extension off the east end of the proposed southern addition at 92'4" from MHW

Applicants testified that the staircase and extension will connect a new door on the south side of the house to an existing walkway of the same width, improving circulation.

The County staff supports this request.

Request 5: After-the-fact variance for the existing 8' x 29'2" (240 SF) brick patio at 42' from MHW

This is an after-the-fact variance because the patio was built by the applicants, who admitted they did not understand the Critical Area law. A citation was issued, and the fine has been paid. Ms. Hoopes testified that they reused many bricks from a previous skirt and planter area that was removed and were trying to reinstall a patio where bricks were thought to be (Applicant Exhibit 1, a photo of remaining bricks). The purpose of the patio is for outdoor enjoyment, especially since a skirt around the property was removed.

The County staff supports this request.

Request 6: 282 SF expansion of the existing brick patio at 53'5" from MHW

The Applicants testify that this is an expansion of the existing patio (Request 5) and will extend no closer to the MHW. The expansion is needed to fill a gap where the southern wall is being pulled in, allowing access from the new kitchen entrance out onto the patio. Mr. Showalter argued that some outdoor living is essential. After a Board member suggested the initial 282 SF may not be the minimum necessary, the applicants conferred and agreed to reduce the variance by approximately 78 SF, making it a 204 SF variance. The necessity is for it to connect to the entrance.

Request 7: Demolition of an existing 599 SF garage at 60'9" from MHW to replace with a new 1,347 SF garage with outdoor kitchen, exterior stairs, second floor game room and bathroom at 60'10" from MHW

Ms. Hoopes testified that the existing garage was in bad condition, and Applicants wanted to improve its size and functionality. They do not want to move the garage's location because they want it to be near the house as they age and do not want to cut any trees to construct a new garage. They are now proposing not to expand the footprint but still want to add a second floor with stairs and a small landing. This modification would result in 70 SF of disturbance beyond the existing footprint. Applicant Exhibits 2 and 3 were submitted (a smaller survey drawing and a site plan, respectively).

The Health Department approved the sewage disposal area and well/swale.

Mr. Nixon testified that the 70 SF disturbance could be approved as a minor variance by Staff if it were a stand-alone request.

Request 8: 5' wide/ 493 SF paver walkway connecting the front entry porch to the driveway at 59' from MHW

Ms. Hoopes testified that the paver walkway will connect the driveway to the front door from the new front porch (part of Request 1). The applicants are mitigating impervious coverage by eliminating an existing concrete apron around the house and a shed.

The County staff supports this request.

The applicants submitted Applicant Exhibit 4 (pictures of the shoreline) to address a letter from a neighbor complaining about the living shoreline. The shoreline is not part of variance requests before this Board.

The Applicants have mitigated coverage by removing the concrete apron around the dwelling and shed. The mitigation plan offers 4:1 for the after-the fact variance and 3:1 for others granted.

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 Applicant.

The Board is satisfied with the mitigation that will be performed, including the required 4:1 mitigation for the after-the-fact variance request and 3:1 mitigation for other approved disturbances, as well as the Applicant's replacement of the septic system with a BAT system that will improve water quality. The Applicants have also taken measures to protect oak trees on the property. The Board is satisfied by oral testimony given that the Applicant is committed to preserving the natural resources on the Property and maintaining the Property in a manner that is consistent with the goals of the Critical Area.

Applicants will reconstruct the garage in the same footprint. The addition of improvements to allow for stairs to a 2nd level are minor and reasonable. The Board is also persuaded by the coverage that Applicants have voluntarily removed, including a skirt surrounding the primary dwelling and shed.

The Board is satisfied that the walkway to the new dwelling entrance will be the minimum necessary after the Applicants made concessions during the public hearing to reduce that coverage.

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 house and detached garage were constructed prior to the implementation of the 100-foot Shoreline Development Buffer. Due to the configuration of the structures, driveway, utilities, and mature trees, the applicants have demonstrated that expansion of the dwelling will minimize the overall impact to the Buffer and eliminate the need for tree removal. Most of the existing dwelling is within the Buffer and the dwelling could not be repaired or updated without a variance.

The Applicant has satisfied the Board that the garage will be constructed within the same footprint, as allowed, with minor square footage needed for a stairway. The outdoor living space is necessary and has been reduced, as needed by the Applicants, to ensure it is only necessary to replace existing coverage, connect to essential entrances and walkways, and provide outdoor living spaces that are typical for other homes in the same vicinity.

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.*

Most waterfront homes enjoy the ability to have outdoor recreational space overlooking the water. It is also necessary to repair and update homes that are ageing, and which were built prior to the Critical Area law that placed those structures within the Buffer. The Applicant has modified its original requests to expand the existing patio and the garage.

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.*

It is common for owners of similar properties to be granted variance approvals to modernize and expand structures within the Buffer. Staff views the additions to the home along with the walkways, steps, and existing patio to be in line with prior approvals on other properties.

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 brick patio was constructed recently by the applicants after the installation of their new septic system. The Code Compliance Department issued a violation and fine for this and the applicants promptly paid the fine. The Board treats this request as though it were not already performed and concludes that the variance is justified. No other variance requests are the result of actions by the Applicant.

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 purpose of the Critical Area program is to protect resources and foster more sensitive development. The Buffer is the last line of defense in protecting the waterways from the impacts of stormwater runoff. While this project will increase the overall lot coverage as well as the lot coverage within the Buffer, a planting plan will be required for the mitigation of the area of new development and the area of the existing patio that was the subject of the variance. These plantings along with the newly constructed living shoreline should work to counteract the impact of the proposed additions. Further, the newly installed BAT septic system will improve environmental conditions on and near the Property.

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

Both the dwelling additions and walkways are proposed to be expanded, however, neither expansion will be closer to MHW than what exists and are designed to be minimal in size while serving the desired functions. While the existing 240 SF patio was constructed without the appropriate approvals, it allows for a modest sized outdoor area on the waterside of the property which is a common feature of many waterfront homes in the area.

The Applicant has agreed to reduce the proposed 282 SF expansion of the existing patio, and the Board finds that it is necessary to connect walkways with the new kitchen entrance to the dwelling.

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 with Attachment A.
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.

11. Independent Procedures Disclosure and Acknowledgement Form.
12. Aerial photo, 2 pages.
13. Photos (7) of the property taken by Andrew Nixon.
14. Package includes site plan, floor plan and elevations.
15. Elevation plans.
16. Critical Area Violation Letter/Order to abate and receipt of payment.
17. Lot Coverage Computation Worksheets.
18. Site Plan existing conditions page A003.1 and Page Site Plan A004.1
19. Alternate Garage Drawing Page A004.1
20. Planting Plan.
21. Letter from Alexa Seip, received 9/29/25.
22. Applicant Exhibit 1 – photos.
23. Applicant Exhibit 2 – Survey drawing.
24. Applicant Exhibit 3 – Site Plan.
25. Applicant Exhibit 4 – photos.

Mr. Krebeck moved to approve the variance requests, with staff conditions, and with the following modifications:

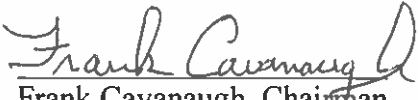
- Request 1 is for 23' x 8' addition.
- Request 6 is reduced by 78 SF for a total of 204 SF.
- Clarification that Request 7 will be approved for an additional 70 SF for vertical stairway expansion to access the living area on the second floor. The structure will remain in the same building footprint.

Mr. Prettyman seconded the motion

Based upon the foregoing, the Board finds, by a unanimous vote, that the Applicant's requests for a variances are granted subject to the following conditions:

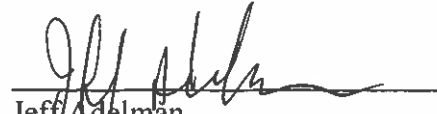
1. The Applicants shall comply with and address all Critical Area Commission requirements.
2. The Applicant shall commence construction of the proposed improvements within eighteen (18) months of the date of the Board of Appeals approval.
3. This approval is only for the requested improvements and additions 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 28th day of October 2025, **ORDERED** that the Applicant's requests for variances are GRANTED.


Frank Cavanaugh, Chairman

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


Keith Prettyman


Jeff Adelman


Zakary Krebeck