

IN THE MATTER OF	*	CASE NO. CAVR-25-2
SUZETTE AND STEVEN GOLDSTEIN	*	VARIANCE REQUEST APPLICATION (Critical Area and Non-Critical Area)

The Board of Appeals (the “Board”) held a hearing on March 31, 2025, in the Bradley Meeting Room, Court House, South Wing at 11 N. Washington Street, Easton, Maryland to consider the application of Suzette and Steven Goldstein (the “Applicants”). Applicants requested Critical Area and Non-Critical Area variances for the property at 8623 North Bend Circle, Easton, Maryland (“Property”). Chairman Frank Cavanaugh, Vice Chairman Louis Dorsey, Jr., Board Members Patrick Forrest, Jeff Adelman, Zakary Krebeck, and Board Attorney Lance Young were present. Board Secretary Christine Corkell and Planner Andrew Nixon appeared on behalf of the County.

The applicants requested a Critical Area variance to encroach the shoreline development buffer to construct a patio expansion entirely within the buffer. The applicants also requested a Non-Critical Area variance of the front yard building restriction line to build a patio expansion as the property does not meet the 200-foot lot width minimum requirement for the RR zoning district. Vice Chairman Dorsey moved to grant the variances. Mr. Krebeck seconded the motion, and it was unanimously approved.

Applicant Suzette Goldstein provided testimony. The applicants purchased the subject property nine months ago and are renovating the interior, including the family room. The intent is to shorten that portion of the dwelling and remove concrete pads from the rear of the dwelling. Sliding glass doors will be added to provide a view of the river and a patio extension is requested to serve that area.

Mrs. Goldstein testified that most homes in the area are afforded outdoor living space, and the applicants are only seeking a modest improvement to allow them to have outdoor cookouts and enjoy the outside of the dwelling. The existing patio is very narrow and not suitable for tables, chairs, or a grill. It is merely a walkway. It would be an unwarranted

hardship if outdoor living space were prohibited. The shape of the lot is unique because it is a long and thin shape.

Mrs. Goldstein provided written answers to the variance criteria, which the Board has reviewed and accepts as part of Mrs. Goldstein's testimony.

Regarding the Non-Critical Area variance request, Planner Andrew Nixon testified that the 2018 County Code changed the zoning for the law to require a 200' width. The Property is entirely nonconforming because of that required width. Any construction on the Property would require a variance.

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 Applicants.

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 the requested variance would deprive the property owner of a reasonable and significant use of the Property. The subject property is a narrow peninsula that is encumbered by the Buffer on three sides. The Property has been certified as nonconforming. It was constructed in 1972 prior to Critical Area and other zoning regulations that restrict the ability to construct any usable outdoor living space.

- 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.*

Patios and other outdoor use areas are a common feature for homes in the Rural Residential zoning district and other waterfront homes. While a new patio would not be permitted within the Buffer, this variance request is for a modest expansion of an existing, legal nonconforming patio. The expansion will result in only 99 sf of new lot coverage in the Buffer and will not be any closer to the Mean High Water Line ("MHWL") than the existing patio.

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.*

Other property owners would be permitted to obtain a Critical Area variance under similar conditions and having shown an unwarranted hardship.

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.*

No action on the part of the applicant has resulted in the need for the variance. The conditions that warrant the grant of a variance existed prior to the Critical Area regulations and the Property is nonconforming.

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 intent of the Critical Area program is to protect resources and foster more sensitive development. The Board finds that a variance will not adversely impact water quality, or any of the existing habitat. The overall lot coverage has been confirmed to be legal nonconforming at 17.14%. The result of the renovation projects proposed by the applicants will not result in any new lot coverage as certain areas of existing coverage will be removed with a reduction of pervious surface.

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

The proposed patio expansion is minimal in size and is adjacent to the existing dwelling. The Board finds that it is the minimum amount necessary to have outdoor living space on the Property. Most of the new area will be located outside of the modified Buffer and will be no closer to the MHWL than the existing portion of the patio.

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.

The Board addresses the standards for a Non-Critical Area variance set forth in the Talbot County Code, § 190-58.3.

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 is a narrow peninsula that does not meet the 200-foot lot width minimum requirement. The entire property is nonconforming to the standards of the RR zoning district. Therefore, the expansion of any existing improvements on the property will require a variance. The Board finds that these factors result in a practical difficulty that warrants a variance for the proposed construction.

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

The Property was developed prior to the implementation of the 200-foot lot width minimum requirement.

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

The variance is requested by the applicants for their own use and not for profitability. The property is legally nonconforming.

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

The improvements are minimal and modest and will not affect neighboring properties in any way. The Board has not received any comments or testimony in opposition to the proposal.

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

The proposed location of the patio expansion balances the minimum encroachment of the Buffer with the need for the patio to align with the new doorway being added to the living room area of the dwelling.

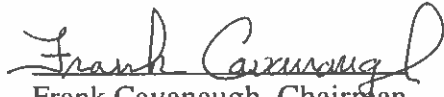
Documents on Record

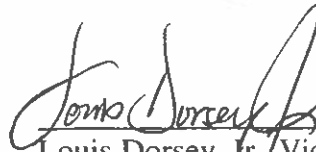
1. Application for a Critical Area variance.
2. Tax Map with subject property highlighted.
3. Notice of public hearing for advertising.
4. Newspaper confirmation.
5. Notice of public hearing with list of adjacent property owners attached.
6. Critical Area variance standards.
7. Non-Critical Area variance standards.
8. Staff Report by Andrew Nixon.
9. Sign maintenance agreement / sign affidavit.
10. Critical Area Commission Comments dated 2/3/25.
11. Independent Procedures Disclosure and Acknowledgement Form.
12. Aerial photo.
13. Location Drawing by Duley and Associates, Inc.
14. Site Plan with Lot Calculations.
15. Elevation Plan.
16. Partial Plan showing patio.
17. Letter from Brennan Tarleton, Planning Officer, dated 12/27/24.
18. Photos (2).
19. Impervious Area and Disturbance Calculations.

Vice Chairman Dorsey moved that the Applicant be granted the requested variances 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 requests for variances are granted subject to the following conditions:

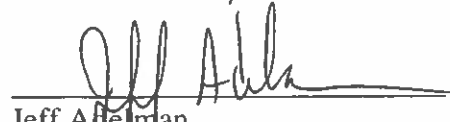
1. The Applicants shall commence construction of the proposed improvements within eighteen (18) months of the date of the Board of Appeals approval.
2. The Applicants shall make an application to the Office of Permits and Inspections, and follow all rules, procedures, and construction timelines as outlined regarding new construction.
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 24th day of April 2025, **ORDERED** that the Applicant's requests for a variances are GRANTED.


Frank Cavanaugh, Chairman


Louis Dorsey, Jr. Vice-Chairman


Patrick Forrest


Jeff Adelman


Zakary Krebeck