

The property is unique because it is long and deep but the structure was built on a triangular shaped piece of the property toward the highway. The back side of the property is wooded and would require removal of trees and vegetation to construct anything on it. The current configuration of the property would not allow for expansion without a variance because it existed before the 150' setback. The sheds are located appropriately to the primary dwelling and driveway.

There are neighboring properties but there are no neighbors or neighboring structures within sight. The sheds are along the front property line that is shared with a 65' wide strip of land that is owned by the State Highway Department and will not be developed for residential purposes.

The proposed expansion is the minimum necessary to provide sufficient space for the family and is further restricted by Health Department restrictions. Fencing only runs alongside the highway. Another reason for the fence is that criminals accessed the property from the adjacent side of it and were arrested on the property. Trees are currently planted in front of the fence. The fence blends in with the woods and there are no immediate neighbors.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

All Board members have visited the site and find, generally, that the existing structures are practical and placed on the property in appropriate positions. Additionally, the improvements will enhance the property and surrounding area, although it is nonconforming to the required setback. The State Highway has no objections to the variances. The Board finds that the Applicants have satisfied the standards for granting a variance.

1. Unique physical characteristics exist such that literal enforcement of the setback would result in practical difficulty in enabling the Applicant to develop or use the property.

Due to the proximity of this property to Oxford Road, it is subject to the 150-foot state highway setback as stated in Talbot County Code §190-12.2(B.1.). The front property line runs along a 65-foot-wide parcel that parallels the highway which was the former railroad tracks that ran from Easton to Oxford. Therefore, what would normally be a 50-foot front yard setback is increased in accordance with the arterial highway setback making the existing dwelling a legal nonconforming structure. The dwelling was constructed in 1979 prior to the adoption of the current setbacks for the zoning district and also the state highway property. The nonconforming nature of the property warrants a variance for these existing structures.

This area is heavily forested, and the house and driveway are configured in an area closest to Oxford Road. The sheds were placed as they are to allow easy access from the driveway and to avoid having to remove any trees. The fencing was constructed to provide privacy, and more importantly safety, from the highway and to act as a barrier for the applicant's young children. Talbot County Code §190- 12.3 (Table II-13) requires closed (privacy) fencing 6-feet in height or less to comply with the front yard setback, however, allows open fencing 4-feet or less in height to be exempt from all setback requirements. Because of the unique conditions of this property, the Board finds that a 6-foot fence is no more problematic than a fence 4-feet or less.

2. The need for variance is not based upon circumstances which are self-created or self-imposed. The lot was created, and the structure built prior to the current zoning ordinance and setback requirements.

The need for the variance is a result of the configuration of the dwelling and existing driveway, which have been in place for over 40 years. The building envelope is greatly reduced by the state highway setback and the irregular shape of the lot. In addition, the original septic system and drain field have recently been relocated and replaced on the property. These areas, as shown on the site plans, are behind the house and reduce the available location options for the sheds. Also, the lot is heavily forested. The proposed construction eliminates the need for any additional tree removal.

3. The variance is not requested for greater profitability or lack of knowledge of the restrictions. The purpose of the expansion is to accommodate the Applicant's growing family. The sheds are modest in size and placed logically. The fencing was installed for safety and security.

4. The variance is not contrary to the public interest and will not be a detriment to adjacent or neighboring properties. The variances will not affect neighboring properties because the adjacent properties are heavily forested, and no other homes are visible from outside of the subject dwelling.

5. The variance will not exceed the minimum adjustment necessary to relieve the practical difficulty. The proposed expansion of the dwelling will not further encroach the state highway setback and will be modest in size due to the capacity of the newly installed onsite sewage treatment system. The two sheds are simply placed at either end of the existing driveway as the building envelope for the property essentially eliminates any areas with direct access to the driveway. Finally, the location of the privacy fence is 73.2 feet from Oxford Road, which is further than the standard 50-foot front yard setback for the zoning district. The fencing only runs along the highway on the north side of the entrance to the property to serve as screening for an area used by the applicant for outdoor storage.

Documents on Record

1. Application for Non-Critical Area variance application.
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. Non-Critical Area Variance standards.
7. Staff Report.
8. Sign maintenance agreement/Sign affidavit.
9. Comments from State Highway, Henry Dierker, received October 8, 2024.
10. Authorization letter.
11. Independent Procedures Disclosure and Acknowledgement Form.

12. Aerial photos (2 pages).
13. Photos taken by Andrew Nixon (5 pages).
14. Elevations and Floor Plans (3 pages).
15. Site Plan of Existing Conditions by Kirby & Associates, Inc.
16. Site Plan of Proposed Improvements by Kirby & Associates, Inc.

Based upon the foregoing, the Board finds, by a unanimous vote, that the Applicant's requests for variances are 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 make an application to the Office of Permits and Inspections for an after-the-fact permit for the shed and follow all rules, procedures, and construction timelines as outlined regarding after-the-fact permits.

3. The Applicant shall commence construction of the proposed improvements within eighteen (18) months of the date of this Decision set forth below.

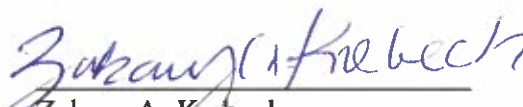
4. This approval is only for the requested improvements and additions in this application and does not cover or permit any other changes or modifications. Items not specifically addressed in this application may require additional approvals.

IT IS THEREFORE, this 16th day of December, 2024, **ORDERED** that the Applicant's requests for variances are GRANTED.


Frank Cavanaugh, Chairman


Greg Gannon


Patrick Forrest


Zakary A. Krebeck


Jeff Adelman