

IN THE MATTER OF	*	CASE NO. CAVR-26-10
CHRISTINE PHILLIPS	*	VARIANCE REQUEST APPLICATION (Critical Area and Non-Critical Area)

The Board of Appeals (the “Board”) held a hearing on August 24, 2026, in the Bradley Meeting Room, Court House, South Wing at 11 N. Washington Street, Easton, Maryland to consider the application of Christine Phillips (the “Applicant”). Applicant requested Critical Area and Non-Critical Area variances for the property at 21944 Sherwood Landing Rd., Sherwood, Maryland (“Property”). Chairman Frank Cavanaugh, Vice Chairman Louis Dorsey, Jr., Board Members Meredith Watters, Jeff Adelman, Zakary Krebeck, and Board Attorney Lance M. Young were present. Board Secretary Christine Corkell and Planner Maddie Zaprowski appeared on behalf of the County.

The Applicant requested a Critical Area Variance of the 100' Shoreline Development Buffer to replace an existing 119 SF wooden deck and steps with a 124 SF screened porch and steps located 42.5' from Mean High Water (MHW). The Applicant requested a Non-Critical Area Variance of the 20' side yard setback to 14.8' to construct the screened porch and steps and a Non-Critical Area Variance of the front building restriction line to permit the screened porch and steps 135.8' from the front property line. The property lies within a Buffer Management Area (BMA) with a setback of 50' from MHW.

The Applicant was represented by Land Planner Elizabeth Fink, who testified on behalf of and alongside the Applicant, Christine Phillips.

Mrs. Fink testified regarding the necessity and physical justification for the requested Critical Area and Non-Critical Area variances. She explained that the existing wooden deck and steps were in a state of disrepair, rotting, and structurally unsafe. Additionally, the existing access steps lacked proper handrails and failed to comply with current building code safety standards. Mrs. Fink noted that the Applicant seeks to construct the screened porch and steps substantially within the footprint of the structure to be replaced, resulting in a nominal footprint expansion of only 5 square feet while remaining no closer to MHW than the existing deck. She further explained that enclosing the area as a screened porch is essential for reasonable outdoor residential enjoyment due to heavy insect activity along the immediate shoreline.

Mrs. Fink noted that while an in-kind replacement of the deck without expansion would ordinarily be permitted administratively, the minor 5-square-foot expansion and enclosure

necessitate Board approval. She emphasized that the Subject Property is inherently constrained and nonconforming under both current Critical Area shoreline buffer rules and Non-Critical Area setback provisions. Due to these pre-existing physical constraints, virtually any modification or modest improvement to the dwelling requires variance relief, creating an unwarranted hardship and practical difficulty if the owner were prevented from replacing deteriorating, unsafe accessory structures.

Mrs. Fink testified that as part of the overall site plan and environmental mitigation, the Applicant will voluntarily remove an existing unpermitted propane tank and the pavers it sits on that were installed by a prior owner long before the Applicant acquired the property in 2008. The removal of this nonconforming lot coverage off-sets the 5-square-foot expansion of the porch, yielding a net increase of 1 square-foot overall lot coverage on the property.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

All members of the Board have personally visited the site, and this decision is based upon the Board's direct visual observations, the testimony of the witness, submitted written narrative, and the comprehensive written record.

The Board finds, generally, that the requests are very minor and are offset by the removal of pavers and the mitigation that is required under the Critical Area regulations. The required mitigation is 3:1.

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 Property is uniquely constrained by its narrow geometry, pre-existing structure placement, and location within a Buffer Management Area (BMA) that reduces the standard 100-foot shoreline buffer to 50 feet. The residential dwelling was constructed in 1966, prior to the enactment of the Critical Area Law, and is certified as legally nonconforming per Planning Officer Determination RTPO-26-5. Strict literal enforcement of the shoreline buffer setback would prevent the Applicant from replacing and enclosing a rotting, unsafe, pre-existing deck, creating an unwarranted hardship by denying reasonable residential use of a modest outdoor living space attached to the home.

- 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.*

Property owners within the Village Residential (VR) district commonly enjoy safe, functional, and insect-screened outdoor living structures immediately adjacent to their principal residences. Denying the Applicant the ability to upgrade a hazardous structure into a usable

screened porch, where the expansion is a mere 5 square feet and encroaches no closer to MHW than the original footprint, would deny rights routinely enjoyed by similarly situated property owners in the VR district.

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.*

Granting this variance confers no special privilege. It allows a modest, functional upgrade to a legally nonconforming residential structure under unique lot conditions. Similar variance relief is available to any property owner in the VR zoning district facing comparable physical lot constraints and nonconforming structural conditions.

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 necessity for variance relief is not self-created. The principal dwelling and original deck were built in 1966 under prior ownership, decades before the Applicant purchased the property in 2008 and long before modern Critical Area buffer restrictions were enacted.

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 Board finds that the proposal will not adversely impact water quality, aquatic life, or habitat. The new screened porch will sit over an existing impervious, developed footprint and will extend no closer to MHW than the original 42.5-foot setback. The overall impact is environmentally positive. The Applicant is removing a propane tank and the pavers it sits on while implementing mandatory 3:1 Critical Area mitigation plantings.

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

The variance requested is the minimum adjustment necessary. The replacement structure expands the existing footprint by only 5 square feet. When combined with the removal of existing side-yard propane tank and the pavers it sits on, the project results in a net overall increase of 1 square foot.

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 variances set forth in the Talbot County Code, § 190-58.3.

A. Unique physical characteristics exist, such as unusual size or shape of the property or extraordinary topographical conditions, such that a literal enforcement of the provisions of this chapter would result in practical difficulty or unreasonable hardship in enabling the applicant to develop or use the property;

The Property features a narrow width of 92.33 feet at its widest point, falling short of the standard 100-foot lot width required in the Village Residential (VR) zone. Because of this restricted width and the placement of the 1966 dwelling, the building restriction lines encumber virtually the entire parcel. The dwelling and deck are legally nonconforming as to both side-yard setbacks and the front building restriction line. Enforcing standard setbacks would create an unreasonable practical difficulty by prohibiting any functional renovation or replacement of deteriorating structures attached to the dwelling.

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

The dwelling was constructed in 1966. Applicant purchased the property in 2008 with the existing improvements in place. The improvements are legally nonconforming to the side and front yard setbacks other than the propane tank and the pavers it sits on which are being removed.

C. Greater profitability or lack of knowledge of the restrictions shall not be considered as sufficient cause for a variance;

The variance is necessary due to structural safety, modern code compliance, and protection from coastal insects. It is not motivated by financial gain or commercial profit.

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

Screened porches are characteristic, common architectural features throughout the VR district. The replacement porch occupies essentially the same spatial footprint as the long-existing deck, does not encroach any closer to Property boundaries, and maintains the established visual character of the neighborhood. No neighboring property owners appeared in opposition.

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

The requested adjustments represent the minimum adjustment necessary to replace a rotting deck with a safe, functional screened porch attached to the rear of the existing home.

Documents on Record

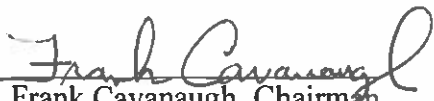
1. Application for a Critical Area variance.
2. Tax Map with subject property highlighted.
3. Notice of public hearing for advertising.
4. Newspaper confirmation.
5. Notice of public hearing with list of adjacent property owners attached.
6. Critical Area variance standards.
7. Non-Critical Area variance standards.
8. Staff Report by Maddie Zaprowski.
9. Sign maintenance agreement.
10. Critical Area Commission Comments.
11. Authorization letter.
12. Independent Procedures Disclosure and Acknowledgement Form.
13. Aerial photos.
14. Photos.
15. Elevations.
16. Deck and Porch Plans.
17. Letter requesting Planning Officer Determination RTPO-26-5, dated 4/16/26.
18. Plat by Fink, Whitten & Assoc., LLC, Job No. T-30-17-38, dated 5/1/26.
19. Plat, Job No. K3681, dated August 1974.
20. Critical Area Buffer Violation/Zoning Violation/Order to Abate, Assessment of Civil Penalty, Receipt of Zoning Violation.

Mr. Krebeck made a motion to approve the requests subject to staff conditions. Mrs. Watters seconded the motion, and it was unanimously approved.

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 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.

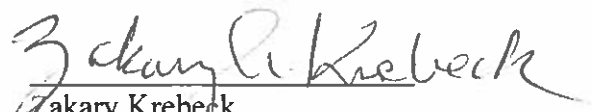
IT IS THEREFORE, this 15th day of September 2026, **ORDERED** that the Applicant's requests for variances are GRANTED.


Frank Cavanaugh, Chairman


Louis Dorsey, Jr., Vice-Chairman


Meredith Watters


Jeff Adelman


Zakary Krebeck