

DECISION
TALBOT COUNTY BOARD OF APPEALS
Appeal No. 20-1705

Pursuant to due notice, a public hearing was held by the Talbot County Board of Appeals at the Wye Oak Room, Talbot County Community Center, 10028 Ocean Gateway, Easton, Maryland beginning at 9 a.m. on June 1, 2020, on the application of **MICHAEL AND LINDA HRYNKO** (the “Applicants”). The Applicants are requesting approval of a non-Critical Area variance for the purpose of construction of an extension to an existing, nonconforming porch to include a roof and step, within the 25-foot front yard setback, to be 17.2 feet from the property line at its closest point. The subject property (the “Property”) is a 0.5584-acre improved residential parcel owned by Applicant Lynda Hrynko and located at 29281 Heworth Road, Easton, Maryland. The Property is improved by a one-story dwelling built around 1956. The Property is shown on tax map 105, grid 00 as parcel 4524, and its zoning classification is Town Residential (“TR”). It is bound to the north by Heworth Road, and to the south, east and west by residential properties of the North Clifton neighborhood, also in TR zone. The area encompassing the proposed variance request is not situated within the 100-foot Critical Area buffer.

Applicants’ request is made in accordance with Chapter 190 Zoning, Article II, §190-10.2, Table II-9; and Article VII, §190-58.3 of the Talbot County Code (the “Code”). Pursuant to §190-9.2, Table II-9”, a 25-foot front and rear setback and 10-foot side setbacks are required for all structures on properties with public or shared sewer service located within the TR zoning district.

Present at the hearing were Board of Appeals members Phillip Jones, Chairman, Frank Cavanaugh, Vice-Chairman, and Paul Shortall, member. Members Louis Dorsey and Zakary

Krebeck participated remotely by teleconference pursuant to the Fourth Amended Emergency Declaration of the County Council of Talbot County, adopted May 26, 2020 (the “Emergency Declaration”), declaring a state of emergency in Talbot County expiring at midnight on June 30, 2020, recognizing the continued threat posed by COVID-19 and allowing for county board and commission meetings to include an option for participants and the public to “participate by teleconference, live streaming, or other available technology . . .”; and pursuant to Board of Appeals Resolution 20-01, passed on June 1, 2020, implementing a policy to coordinate the Talbot County Board of Appeals Rules of Procedure (the “Rules”) with the Emergency Declaration by defining the term “convene” in Rule 4 of the Rules to include Board members who choose to participate remotely by any of the methods set forth in the Emergency Declaration. Maria Brophy, Planner II and Miguel Salinas, Assistant Planning Officer, attended the hearing on behalf of Talbot County. William C. Chapman was the attorney for the Board of Appeals (the “Board”). It was noted for the record that each member of the Board had individually visited the site.

The following exhibits were offered and admitted into evidence as Board’s Exhibits as indicated:

1. Application for a Non-Critical Area Variance with Applicants’ narrative as Attachment A.
2. Tax Map of subject property.
3. Notice of Public Hearing for advertising in *The Star Democrat* newspaper.
4. Newspaper Confirmation.
5. Notice of Public Hearing and Adjacent Property Owner List.
6. Standards for Non-Critical Area Variance with Applicants’ responses.
7. Staff Report prepared by Elisa Deflaux, Planner II.

8. Sign Maintenance Agreement/Sign Affidavit.
9. Authorization Letter.
10. Disclosure and Acknowledgment Form.
11. Aerial Photos.
12. Photos from Site Visit.
13. Direction to the Property
14. Site Plan of the Property prepared by Andrews Land Surveying.
15. Construction/Floor plans prepared by ANH Designs.
16. February 18, 2020 letter from Linda Hrynko authorizing her husband, Michael Hrynko, to act on her behalf.

The Applicants were sworn in. Mr. Hrynko testified that the current step to the main entrance to the dwelling is nowhere near the driveway on the Property. He said he suffers from decreased mobility issues and needs the step to the dwelling to extend to the driveway so that he can exit his vehicle and access the dwelling without going through the grass. Mr. Hrynko said he wishes to replace the small porch stoop with a gable construction to allow for a small roof to protect it from the weather, and that the project will not encroach any further than the current nonconforming porch stoop.

Mr. Dorsey asked Mr. Hrynko whether the porch for which the variance request is made is the only inaccessible ingress/egress point to the dwelling. Mrs. Hrynko said she and her husband are also planning to build a ramp onto the back of the dwelling.

Mr. Krebeck said the proposed modification is low-impact and does not appear to increase the degree of nonconformity.

The Board then considered the application. Based on the testimony, application and exhibits, upon motion and seconded, the Board approved the requested variance, by a vote of five to zero.

The Board made the following findings of fact and law:

1. All legal requirements pertaining to a public meeting were met.
2. Unique physical characteristics exist, such as unusual size or shape of the property or extraordinary topographical conditions, such that the literal enforcement of the provisions of this chapter would result in a practical difficulty or unreasonable hardship in enabling the applicant to develop or use this property. The Property conforms to the minimum lot size in the TR zoning district, but as stated by the Applicants, the lot is curved and angled, limiting further development on the front of the dwelling. The existing dwelling was constructed within the 25-foot setback in 1956. It is not unreasonable to propose amenities to allow a resident safer access to the residence for the ease of aging in place. Mr. Hrynko has testified that he suffers from decreased mobility issues that make accessing the dwelling via a grassy area, unwieldy step and uncovered existing porch difficult.
3. The need for the variance is not based upon circumstances which are self-created or self-imposed. The dwelling was constructed in 1956; Mrs. Hrynko purchased the Property in 2019.
4. Greater profitability or lack of knowledge of the restrictions shall not be considered as sufficient cause for a variance. Per the Applicants' application and testimony, the requested variance is not based on greater profitability nor a lack of

knowledge of Code regulations, but rather, Applicants' reasonable desire to facilitate safer travel from a vehicle and the driveway to the front entry of the dwelling.

5. The variance will not be contrary to the public interest and will not be a detriment to adjacent or neighboring properties. A reasonable modification to facilitate safer access to a resident's home is not contrary to the public interest. The Board notes that many residences in the North Clifton neighborhood appear to be situated at the same or lesser distance from the front property line as the dwelling on the Property.
6. The variance shall not exceed the minimum adjustment necessary to relieve the practical difficulty or unreasonable hardship. The Board finds that the request is the minimum adjustment necessary to accommodate Applicants' needs of a safer access to the front of the dwelling.

HAVING MADE THE FOREGOING FINDINGS OF FACT AND LAW, IT IS, BY
THE TALBOT COUNTY BOARD OF APPEALS,

RESOLVED, that the Applicants, **MICHAEL AND LINDA HRYNKO** (Appeal No. 20-1705) are **GRANTED** the requested variance consistent with the evidence presented to the Board of Appeals, subject to the following conditions:

1. The Applicants shall make applications to the Office of Permits and Inspections, and follow all of the rules, procedures and construction timelines as outlined regarding new construction.
2. The Applicants shall commence construction on the proposed improvements within eighteen (18) months from the date of the Board of Appeals' approval.

GIVEN OVER OUR HANDS, this 22nd day of June, 2020.

TALBOT COUNTY BOARD OF APPEALS



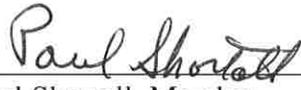
Phillip Jones, Chairman



Frank Cavanaugh, Vice-Chairman



Louis Dorsey, Member



Paul Shortall, Member



Zakary Krebeck, Member