

The Planning Commission recommend approval. The Critical Area Commission Planner, Annie Sekerak, opined that the Applicant has the burden of proof demonstrating that the primary dwelling structures are nonconforming.

The reconstruction will be done in conformance with § 190-48.3(B) with regard to the gross floor area and/or square footage. It will also be compliant with all other zoning restrictions and requirements. The dwelling is very dilapidated in its current state. The reconstruction will place the dwelling even further from the Mean High Water line, which benefits the environment. The reconstruction will have little impact on adjacent properties. It is around 1,300 feet away from the nearest neighbor. Mr. Mulaney represented that the nonconforming use has never been abandoned for a 12 month period of time.

Mr. Ewing testified that the entire site compound is over 100 years old. The replacement building envelope is 160' from the water at its closest point and there are no buffer violations. The Applicant will comply with all standards in the permitting process.

Andrew Nixon, the County Planner, testified regarding the nonconforming status of the dwelling. The County staff consider the use nonconforming, in part, because the 2010 recorded plat certifies the existence of the two primary dwellings existing prior to the enactment of the zoning ordinance. There was no testimony that contradicted Mr. Mulaney and Mr. Nixon's testimonies regarding nonconformity.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Board finds that the primary dwelling structure that Applicant proposes to reconstruct is legally nonconforming. The structure was built on or around 1900 and has been used continuously as a primary residence since that time. The Board is satisfied with the evidence and testimony of Mr. Mulaney and Mr. Nixon in that regard.

The Board finds by a preponderance of the evidence that the request satisfies the requirements of the Talbot County Code, § 190-56.2.

1. The use will be consistent with the purposes and intent of the Talbot County Comprehensive Plan.

Chapter 2- Land Use Plan, Sensitive Areas Planning Policy 2.29 states, "*the Residential Development in the RC and WRC zoning districts will be limited to one dwelling unit per 20 acres.*" The property has 54.483 acres of land in the Critical Area/ RC and the current use conforms to this policy. The expansion of the subject dwelling will not affect the residential density of this parcel.

Chapter 9, Section II.B. – Rural Residential Development: In reference to the RC and WRC zoning districts, the Comprehensive Plan states, "*Agriculture is the preferred use with within these areas, though low density, single-family housing is also permitted. The traditional residential development pattern in these areas can be described as single-family residences, frequently buffered by trees, hedgerows and vegetation. Agricultural outbuildings, barns, silos and other*

structures are frequently located in the vicinity of the primary residence. Creeks, streams and wetlands are usually buffered and protected to the greatest degree possible.” The slight shift in location proposed for the subject dwelling will not have any disturbance in the shoreline development buffer or the expanded buffer for steep slopes. The new location will also be further from the MHWL and will not impact any land associated with the agricultural production on the property.

2. The use will comply with the standards of the zoning district in which it is located, except as those standards may have been modified by the granting of a variance. All setback and bulk requirements, as well as buffer requirements will be met by the proposed dwelling reconstruction.

3. The scale, bulk and general appearance of the use will be such that the use will be compatible with adjacent land uses, with existing and potential uses in its general area, and will not be detrimental to the economic value of the neighboring property. The Board finds that the reconstruction will improve the quality and aesthetic of the Property, which is a benefit to neighboring properties.

4. The use will not constitute a nuisance to other properties and will not have significant, adverse impacts on the surrounding area due to trash, odors, noise, glare, vibration, air and water pollution, and other health and safety factors or environmental disturbances. It is a replacement of an existing dwelling that has existed for over 100 years. The Applicant intends to comply with all stormwater and erosion and sediment control regulations.

5. The use will not have a significant adverse impact on public facilities or services, including roads, schools, water and sewer facilities, police and fire protection or other public facilities or services. It is not anticipated that there will be any impacts to public facilities.

6. The use will not have a significant adverse effect upon marine, pedestrian or vehicular traffic. The Property is isolated and the replacement structure will not change the nature and/or use of the Property.

7. The use will not produce traffic volumes, which would exceed the capacity of public or private roads in the area or elsewhere in the County, based on the road classifications established in Chapter 134, the Talbot County Roads and Bridges Ordinance, and other applicable standards for road capacity. There are no additional traffic impacts expected to result from the reconstruction.

8. Any vehicle access to proposed off-street parking areas and drive-in facilities will be designed to minimize conflicts between vehicular, bicycle and pedestrian traffic and to minimize impacts on adjacent properties and on public or private roads. No vehicular access will be included in the project.

9. The use will not significantly adversely affect wildlife with respect to the site’s vegetation, water resources, or its resources for supplying food, water, cover, habitat, nesting areas, or other needs of wildlife. The reconstructed dwelling will be further from the Mean High Water

Line. There are no significant clearing of vegetation that is proposed and, to the extent that there will be any vegetative removal, the Applicant is required to mitigate for it. All work will be outside of the shoreline development buffer. The resulting lot coverage will be well below the 15% permit restricted by Critical Area regulations.

10. There are no adjacent existing agricultural uses that will be impacted.

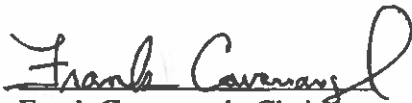
Documents on Record

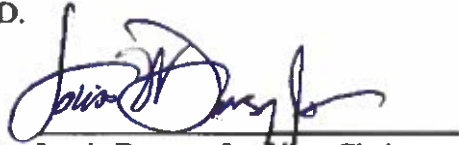
1. Application for Special Exception.
2. Tax Map with subject property highlighted.
3. Notice of public hearing for advertising.
4. Newspaper confirmation.
5. Notice of public hearing with list of adjacent property owners attached.
6. Special Exception standards.
7. Staff Report, prepared by Andrew Nixon.
8. Planning Commission recommendation.
9. Sign maintenance agreement/sign affidavit.
10. Comments from Critical Area Commission, Annie Sekerak, dated 11/1/24.
11. Independent Procedures Disclosure and Acknowledgement Form.
12. Aerial photo.
13. Site plan prepared by Lane Engineering, LLC.
14. Floor Plan.
15. Elevation Plans.
16. Photos taken by Andrew Nixon, 6 pictures.

Mr. Adelman moved to grant the Special Exception subject to the conditions set forth herein. The motion was seconded by Mr. Forrest. Based upon the foregoing, the Board, by a unanimous vote, grants the Special Exception subject to the following conditions:

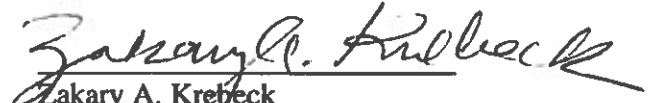
1. The Applicant shall make an application to the Office of Permits and Inspections, and follow all rules, procedures, and construction timelines as outlined regarding new construction.
2. The Applicant shall commence construction of the proposed improvements within eighteen (18) months of the date of the Board of Appeals approval.
3. A buffer management plan must be provided by the Applicant for any removal of vegetation proposed for the project and to mitigate for the addition of new lot coverage.
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.

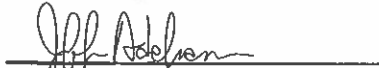
IT IS THEREFORE, this 4th day of December, 2024, **ORDERED** that the Applicant's request for special exception is **GRANTED**.


Frank Cavanaugh, Chairman


Louis Dorsey, Jr., Vice-Chairman


Patrick Forrest


Zakary A. Krebeck


Jeff Adelman