

BEFORE THE TALBOT COUNTY BOARD OF APPEALS

IN THE MATTER OF	*	CASE NO. VAR-24-7
BRUCE F. LEE AND	*	VARIANCE REQUEST APPLICATION
KIMBERLY E. SEDMAK		

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The Board of Appeals (the “Board”) held a hearing on January 27, 2025, in the Bradley Meeting Room, Court House, South Wing at 11 N. Washington Street, Easton, Maryland to consider the application of Bruce F. Lee and Kimberly E. Sedmak (the “Applicants”). The Applicants requested four variances at 5494 Ulmer Road, Royal Oak, Maryland. 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 III, Elisa Deflaux appeared on behalf of the County.

STATEMENT OF THE CASE

The Applicants requested approval for four Non-Critical Area Variances that will allow variances from:

- (1) the required 50’ setback reduced to 29.6’ to permit the construction of a new 14’ x 23’ 10” sunroom addition on the rear of the residence;
- (2) the required 15’ side yard setback reduced to 2.6’ to permit the construction of a 14.37’ x 13.02’ single-story screened porch addition to the rear of an existing accessory structure;
- (3) of the 25% (3,852) maximum lot coverage to permit a lot coverage of 27.5% (4,186 sf); and
- (4) the required 15’ side yard setback reduced to 2.7’ and the 50’ front setback reduced to 9’ to permit an existing 8’ x 8’ storage shed to remain in its current location.

SUMMARY OF TESTIMONY

Mr. Zach Smith represented the Applicants and provided testimony on their behalf. He focused on the practical difficulty standard for granting a variance and explained that the standard largely looks at whether the uniqueness of the property necessitates a variance. The uniqueness of the property here is that it is small (approximately 1/3 acre), which is much smaller than the majority of surrounding agricultural and estate properties. Some surrounding properties are in excess of 50 acres and residential properties in close proximity are 3-6 acres. The minimum lot size in the zoning area is 1 acre. The property at issue predates that 1-acre standard.

The property is also triangular shaped. The home and improvements on site are small compared to others in the area. The home has also been historically used as a church, dating back to around 1858. A prior owner renovated and changed the use to residential.

Mr. Smith presented the site plan to the Board and showed the Board that the proposed building envelope is the only developable area on the property. The existing improvements are legally nonconforming. The Applicants have worked with an architect to maintain the historical nature of the structure. The proposed addition to the home is situated on a part of the home that is not visible from the roadway.

Mr. Smith explained that this project has been on hold for a significant period of time because the property did not have a suitable septic reserve area. However, an adjacent property owner has provided an easement on their property to allow for that septic reserve.

Applicant Kimberly Sedmak provided testimony. She explained that the historic church structure was primarily one big room. They have honored the historical architecture, and the interior remains primarily one large room. The Applicants have lived in the dwelling for 30 years and are planning to live there full time. The desire to live there full-time necessitates a little more living space. Applicants request an additional accessory structure to permit enjoyment of the outdoors and to provide a screen porch protection from the elements. The proposed screen porch will be over an existing brick patio.

Ms. Sedmak testified that the addition to the primary dwelling cannot be added on another potential side of the dwelling outside of a setback because there is a kitchen in that portion of the dwelling.

Applicant Bruce Lee also provided testimony. He testified that the home was purchased in 1992 and in 1994 the Applicants were presented a historic preservation award for restoration of the structure. He explained the historical significance of the church structure, which was built in 1856 after replacing another burned down church. It remained vibrant as a church until World War II when the congregation largely moved to a church in the town of Easton.

Mr. Lee also testified that the need for an addition to the home is largely because they have maintained the open design of the dwelling. He also testified that the outside improvement would allow the Applicants to enjoy the outdoors.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

All Board members have visited the site and find, generally, that the Applicants have maintained the property and historic church dwelling well. The requests are not contrary to the public interest and the improvements will help to maintain the property as a viable residential property while maintaining its historic nature. The property has a very small building envelope and is otherwise constricted. It is in a wooded area, as opposed to within a development and there is no opposition from the surrounding community. 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.

The unique qualities of this property are its small size compared to surrounding properties and other properties within the same zoning district, as well as the triangular shape of the property which make building within the setbacks almost impossible. It is a .35-acre property in a zone that requires a minimum lot size of 1 acre.

The existing structures within the property have existed decades before the current zoning requirements and are legally nonconforming.

The existing home is 1,172 sf. Other nearby homes exceed 4,000 sf without violating any section of the zoning ordinance.

2. The need for variance is not based upon circumstances which are self-created or self-imposed. The lot was created, and the structures built prior to the current zoning ordinance and setback requirements. The exception is the 8' x 8' shed. However, the Board finds that the shed is a reasonable accessory structure to have on the property and is in the most suitable location for a shed and cannot be placed elsewhere without needing a setback variance.

3. The variance is not requested for greater profitability or lack of knowledge of the restrictions. The requests are based on the Applicant's desire to fully utilize the property as their full-time residence without compromising the historical nature of the property.

4. The variance is not contrary to the public interest and will not be a detriment to adjacent or neighboring properties. The Board finds that the property benefits the public because the Applicants have maintained a historic property, which is also aesthetically pleasing, for the benefit of the neighborhood. The proposed additions are in character with the existing neighborhood and are modest proposed additions. The proposed screen porch faces undeveloped, heavily wooded land.

5. The variance will not exceed the minimum adjustment necessary to relieve the practical difficulty. The Applicants have demonstrated that the additions are modest and cannot be constructed in a manner that does not require a variance. The requested variations from the setback requirements are dictated by the location and configuration of the existing structures that need to be expanded, and are the minimal variations that are necessary. The proposed increase in lot coverage is only 360 sf, which the Board finds to be the minimum adjustment necessary.


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. Authorization letter.
10. Independent Procedures Disclosure and Acknowledgement Form.
11. Aerial photo.
12. Photos of property (8 pages).
13. Site Plan prepared by Davis, Bowen & Friedel, Inc.
14. Site Plan portion enlarged of the area of proposed additions.
15. Elevation plans.
16. Floor plan.
17. Copy of Board of Appeals Decision No. 283.
18. Applicant Hearing Ex. #1 (historic picture of church).
19. Applicant Hearing Ex. #2 (4 pictures).

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 11th day of February 2025, **ORDERED** that the Applicant's requests for variances are GRANTED.


Frank Cavanaugh, Chairman


Louis Dorsey Jr., Vice Chairman


Patrick Forrest


Zakary A. Krebeck


Jeff Adelman