

BEFORE THE TALBOT COUNTY BOARD OF APPEALS

IN THE MATTER OF

* CASE NO. RADC-25-1

JAMES AND KONSTANTINA
WATSON

* APPLICATION FOR REASONABLE
ACCOMODATION

* * * * * * * * * * * *

The Board of Appeals (the “Board”) held a hearing on October 20, 2025, in the Bradley Meeting Room, Court House, South Wing at 11 N. Washington Street, Easton, Maryland to consider the application of James and Konstantina Watson (the “Applicants”). The Applicants requested a reasonable accommodation for the property located at 26490 North Presquile Dr., Easton, MD 21601 (“Property”). Chairman Frank Cavanaugh, Vice Chairman Louis Dorsey, Jr., Board Members Greg Gannon, Jeff Adelman, Zakary Krebeck, and Board Attorney Lance M. Young were present. Board Secretary Christine Corkell, Bryce Yelton, Assistant Planning Officer, and Madelyn Zaprowski, Planner, appeared on behalf of the County.

STATEMENT OF THE CASE

The Americans with Disability Act (“ADA”) prohibits discrimination against disabled persons, or denial of the benefits, services and programs of local government on the basis of disability. As stated by the ADA:

A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

28 C.F.R. § 35.130(b)(7).

Talbot County Code § 190-57 provides a mechanism for this Board, and other local entities charged with applying the County zoning provisions, for modifying the County zoning requirements when necessary to reasonably accommodate disabled persons. This is a case in which the Board must apply the reasonable accommodation provision of the Talbot County Code to reasonably modify application of the Critical Area law.

The Applicants requested an after-the-fact reasonable accommodation for a disabled citizen to allow retention of a 75-square foot timber platform and a 50-square foot portion of a ramp with railings to facilitate walker and wheelchair access to a newly reconstructed pier. The improvements are within the 100-foot Shoreline Development Buffer (“Buffer”) and extend 18.5’ landward of the Mean High-Water Line (“MHWL”), resulting in 125-square feet of lot coverage within the Buffer.

SUMMARY OF TESTIMONY

Attorney Bruce C. Armistead appeared on behalf of the Applicant. The Applicants, James and Konstantina Watson provided testimony. Tom Watson, who resides on the Property, also provided testimony.

Mr. Armistead first addressed the violation of constructing the improvements without a permit. The Applicants have been cited and have paid a fine for the construction of the platform and ramp.

Mr. Armistead next provided a visual history of the Property, demonstrating that the previous owners did not maintain the pier, which extended over a sand bar. There were also dilapidated stairs and a brick landing at the top of the pier. When Applicants purchased the Property, the shoreline was not stable, and Applicants performed extensive repair to it. A brick sidewalk was also in need of improvement that used to extend to the pier. The unique configuration of the pier necessitated the platform (75 sf) at the top of the stairs leading from the pier.

Tom Watson testified that he and his wife, Sallie Watson, live at the Property and act as care takers of the Property. Mrs. Watson is disabled in that she has progressive rheumatoid arthritis, which makes it difficult for her to move around and climb steps. It is highly likely that she will be bound by a wheelchair in the future. Stairs to the pier were replaced by a ramp, so that the couple could continue to enjoy the water and boating.

Tom Watson further testified that the improvements provide minimal impact and are a common sense way to connect the pier to the shoreline, which must connect unique angles due to the sand bar in the water. Old stairs were replaced with a ramp.

James Watson, who owns the Property, testified that his disabled mother struggles to move her fingers and toes. A physicians letter supports her disability. He intended that the platform provide access to the pier. It is not intended to be a patio.

Mr. Armistead stated that, in the absence of the improvements, a disabled individual cannot access or enjoy the shoreline and pier. It is discrimination to deny that enjoyment. He further stated that Applicants have performed substantial mitigation, and will be required to perform substantially more mitigation. He requested that the Board not require removal of the improvements when the reasonable accommodation is no longer necessary because it is a *de minimus* intrusion and removing the improvements will cause environmental harm.

Applicants and Board members discussed required mitigation for the project in significant detail.

The Critical Area Commission ("CAC") provided comments in response to the Application. The CAC does not oppose retention of the ramp but concludes that the platform is not necessary to ensure reasonable use of the Property and is not the minimum necessary to afford relief.

Applicants will provide the required mitigation under the Critical Area law.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Our analysis of the request for a reasonable modification is guided by the case of *Mastandrea v. North*, 361 Md. 107 (2000). The Supreme Court of Maryland analyzed a decision by this Board to accommodate a disability. The applicant in that case constructed several paths around a property to accommodate a family member's (Leah's) disability. The court found that it was a reasonable modification to construct the paths so that the disabled person could enjoy the entire waterfront within the Buffer equally with non-disabled persons.

The court considered the proposition that not being able to access the shoreline would be a mere inconvenience because it would not prohibit the disabled family member from a reasonable and significant use of the "entire" property. The court stated that this Board "did not have to consider whether denying the variance would have denied the Mastandreas a reasonable and significant use of the 'entire' lot. Rather, the Board was required (and did) consider whether the property owners, in light of their daughter's disability, would be denied a reasonable and significant use of the waterfront of their property without the access that the path provided."

The court found that a literal application of the zoning ordinance would deprive the disabled family member of the ability "to enjoy the property on which she resides as others in the area similarly situated may enjoy theirs without the need for a similar path." The court stated that this "Board could (and did) conclude reasonably that granting the variance would simply put Leah in a similar position as occupants of other properties in the same zone who were able to enjoy their property without such a wheelchair path" and that to deny such a modification would "reduce the otherwise discriminatory effect of the ordinance and to restore Leah's reasonable use and enjoyment of the property."

All members of the Board have visited the Property in the instant matter to visually consider the necessity of the proposed improvements. The Board concludes that the platform leading to the pier provides for a disabled individual in a wheelchair to both access the pier and observe and connect with family members that are on the pier.

The Board is sensitive to the CAC position that the platform is not necessary to ensure reasonable use of the Property and is not the minimum necessary to afford relief. Under most other circumstances, the Board members would agree. The platform was specifically designed to connect the the unique configuration of pier and ramp that are unique to this property because of a sand bar in the water.

The Board also considered the suggestion to require that the improvements be removed when accommodations are no longer required. The improvements are permanent in nature and removing them would create unnecessary environmental disturbance. Therefore, the Board declines imposing that restriction.

The Board addresses each of the standards set forth in § 190-57 of the Code.

- A. *The alterations will benefit persons with a disability within the meaning of the Americans with Disabilities Act.*

The Applicants provided adequate documentation of disability that limits Sallie Watson's mobility. The previous pier was inaccessible due to the elevation of the shoreline and steps as access to the pier platform. The improvements proposed within the application would allow Mrs. Watson access to the pier located on the subject property at her current level of mobility and future levels of mobility including possible walker or wheelchair use.

- B. *Literal enforcement of the requirements of this [zoning] chapter would result in discrimination by virtue of such disability or deprive a disabled resident or user of the reasonable use and enjoyment of the property.*

The Board finds that the platform is the only way in which the disabled individual can observe and connect with family members that are enjoying waterfront activities on the pier. The platform also exists to connect the unique configuration of the pier and ramp. It is not large enough to be utilized as a patio for numerous individuals. The Board finds, as a matter of fact, that not allowing the platform would result in discrimination for a disabled individual in this specific situation because she will eventually rely on a wheelchair to enjoy the shoreline and pier. The only aspects of this project proposal that increase the overall lot coverage or increase the extent of the encroachment into the Buffer are the 75-square foot platform and the 50-square foot portion of the ramp. Without the proposed platform and ramp, access to the ramp and pier would be hindered.

- C. *A reasonable accommodation would reduce or eliminate the discriminatory effect of the requirements or restore the disabled resident's or user's reasonable use or enjoyment of the property.*

The pier would be inaccessible to Mrs. Watson, without the ramp and platform, due to her Rheumatoid Arthritis, as the previous pier utilized a set of stairs to ascend the steep shoreline to the pier. The changes result in a net increase in lot coverage within the Buffer of approximately 125 square feet.

- D. *The accommodation requested will not substantially impair the purpose, intent, or effect of the requirements of this chapter as applied to the property.*

The primary components of the Critical Area regulations that apply to this proposed project are the impervious lot coverage and the distance of the improvements from the MHWL. The improvements are 125 square feet combined, and the platform is 7' from the MHWL while the ramp crosses MHW. The proposal is minimal in lot coverage compared to the rest of the property.

E. *If the property is located in the Critical Area, the accommodation would:*

1. *Be environmentally neutral with no greater negative impact on the environment than the literal enforcement of the statute, ordinance, regulation or other requirement; or*
2. *Allow only the minimum environmental changes necessary to address the needs resulting from the particular disability of the applicant.*

The expansions within the Buffer are for the purpose of providing wheelchair access to the existing property features. This project increased the lot coverage in the Buffer by 125 square feet, which is within the 15% allowable lot coverage for properties located in the Critical Area. Additionally, if approved, the Applicants are required to mitigate at a 4:1 ratio for violation and a 3:1 ratio for any permanent disturbance allowed after-the-fact. The Applicants have also significantly restored shoreline, which included stabilizing the shoreline to prevent the loss of vegetation in the Buffer due to erosion.

Documents on Record

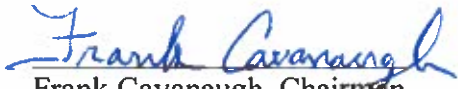
1. Application for Reasonable Accommodation for the needs of disabled citizens.
2. Tax Map with subject property highlighted.
3. Notice of public hearing for advertising.
4. Newspaper confirmation.
5. Notice of public hearing with list of adjacent property owners attached.
6. Reasonable Accommodation for the needs of disabled citizen standards.
7. Staff Report.
8. Sign maintenance agreement.
9. Critical Area Commission comments.
10. Authorization letter.
11. Independent Procedures Disclosure and Acknowledgement Form.
12. Aerial photo.
13. Letter to Frank Cavanaugh from Bruce Armistead, dated 7/16/25.
14. Declaration of Restriction and Covenants for Presquile on Way.
15. Assessment of civil penalty with cover letter from Todd Powers, 5/9/25.
16. Letter from Maryland Department of Environment, Jonathan Stewart, Chief, dated 6/17/24.
17. Rheumatology Associates of Delmarva, dated 6/18/25
18. Photos of shed and walkway.
19. Photos of pier, platform, walkway and shed.
20. Email from Madelyn Zaprowski with photo of platform and pier.
21. Letter from Madelyn Zaprowski, dated 8/8/25.
22. Critical Area Violation/Stop Work Order/Order to Abate from Todd Powers, dated 8/12/25.
23. Assessment of Civil Penalty, ZV-25-4156-WATI, dated 8/12/25.
24. Letter from Bruce Armistead to James Mullikin, dated 8/29/25.
25. Email from Todd Powers to Bruce Armistead, dated 9/2/25.
26. Site Plan by Lane Engineering, LLC, Job. No. 230560.
27. Minor Buffer Management Plan.

28. Visual History of Site Conditions, prepared by Bruce Armistead.

Mr. Krebeck moved to grant the request for a reasonable accommodation subject to staff conditions. The motion was seconded by Mr. Gannon. Based upon the foregoing, the Board finds, by a unanimous vote, that the Applicant's request is granted subject to the following staff conditions:

1. The Applicants shall make an application to the Office of Permits and Inspections, and follow all rules, procedures, and timelines as outlined regarding after-the-fact permits.
2. Applicants shall complete a Buffer Management Plan that complies with Critical Area Law. The Applicants shall provide 4:1 mitigation for the initial violation and 3:1 mitigation for any permanent disturbance within the Buffer. Applicants will not be required to remove the improvements upon a termination of need or at a time of the sale/transfer of the Property.

IT IS THEREFORE, this ~~18th~~ day of November 2025, **ORDERED** that the Applicant's request for Reasonable Accommodation is GRANTED.


Frank Cavanaugh, Chairman

Unavailable for Signature
Louis Dorsey, Jr., Vice-Chairman


Greg Gannon


Zakary A. Krebeck


Jeff Adelman