

BEFORE THE TALBOT COUNTY BOARD OF APPEALS

IN THE MATTER OF * CASE NO. VAR-23-1
JOHN WESLEY PRESERVATION * VARIANCE REQUEST APPLICATION
SOCIETY, INC. *
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The Board of Appeals (the “Board”) held a hearing on June 5, 2023 in the Bradley Meeting Room, Court House, South Wing at 11 N. Washington Street, Easton, Maryland to consider the application of John Wesley Preservation Society, Inc. (the “Applicant”). The Applicant requested variances at 4957 Evergreen Rd., Oxford, MD 21654. Chairman Frank Cavanaugh, Vice Chairman Louis Dorsey, Jr., Board Members Patrick Forrest, Greg Gannon, Zakary Krebeck, and Board Attorney Lance M. Young were present. Board Secretary Christine Corkell and Planner Elisa Deflaux appeared on behalf of the County.

STATEMENT OF THE CASE

The Applicant requested three variances for the purpose of constructing a privy building with an ADA compliant ramp and landing adjacent to the existing museum building. The three required variances are required for (A) a proposed distance of 30’ within the required 150’ State Highway setback; (B) a distance of 20’ from the eastern property line with a required 25’ side yard setback; and (C) 3’-2 ½” of the minimum distance of 10’ required between structures.

SUMMARY OF TESTIMONY

The project includes the demolition of an existing shed that is adjacent to a 12’ x 24’ structure that was known as the “cook shop”. The cook shop will become the museum facility and the Applicant plans to construct a privy with an ADA ramp and landing that will provide access to both facilities.

Paul Rogers of Rauch, Inc. provided testimony for the Applicant. This Board previously granted the same requested variances (Appeal 19-1695) in 2019. The previous appeal granted the Applicant a special exception use for a Community and Cultural Facility, along with the three requested variances. The construction of the privy building with an ADA compliant ramp and landing was delayed and so the granted variances have expired.

The construction is necessary to make the cook shop museum on the property ADA accessible. The existing shed will be reconstructed, in kind, to serve as a facility for visitors for convenience and sanitation. The Applicant is securing property to the south for additional parking. Most of the property is used as a cemetery and restricted by historical preservation regulations.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Board incorporates its findings of fact and conclusions of law as set forth in Appeal No. 19-1695. The Board finds that the Applicant has satisfied the standards for granting of the three variances and sets forth these additional findings:

A. Unique physical characteristics exist such that literal enforcement of the setback requirements would result in practical difficulty or unreasonable hardship in enabling the Applicant to develop the property. The property includes a church, cook shop and cemetery. There is limited area to construct the ADA access features along with the privy. The 150' state highway setback further inhibits Applicant's ability to construct the improvements without variances.

The improvements will result in minimal onsite impact with respect to lot coverage. The proposed privy will be in the same proximity as an existing shed and will be adjacent to the proposed museum. The improvement will provide necessary ADA compliant access to the facilities. Locating the privy near the museum will provide easier pedestrian access to the facilities for those with disabilities.

The 10' building separation requirements are to ensure adequate onsite access for emergency response vehicles.

B. The need for a variance is not based upon circumstances which are self-created or self-imposed. The property is a historically significant site. The church and cemetery have been in existence since the 1800s. The cook shop and other features were also constructed long ago. These features predate modern setback requirements. The variances are necessary for adequate and safe public access to these historic facilities.

C. The variance is not requested for greater profitability or lack of knowledge of the restrictions. The variances are necessary to allow better, ADA compliant access to the historic facilities.

D. The variance is not contrary to the public interest and will not be a detriment to adjacent or neighboring properties. The improvements are comparable in both size and scale to existing facilities. The neighboring properties are farmland. The nearest residential dwelling is over 500' away.

MDE has approved construction and Applicant must follow instructions on its MDE permit to ensure minimal impacts to nontidal wetlands buffer. Therefore, the Board finds there is no detriment to the nontidal wetlands buffer.

E. The variance will not exceed the minimum adjustment necessary to relieve the practical difficulty or unreasonable hardship. The cemetery and other features of the property greatly restrict where any improvements can be made. The improvements being made are uniquely connected to the existing and reconstructed structures and necessary for ADA compliant access to those facilities.


Mr. Gannon moved that the Applicant be granted the requested variances subject to staff conditions and the motion was seconded by Mr. Krebeck. Based upon the foregoing, the Board finds, by a unanimous vote that the Applicant's request 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 commence construction of the proposed improvements within eighteen (18) months of the date of this Decision set forth below.

IT IS THEREFORE, this 26th day of June, 2023, **ORDERED** that the Applicant's request for a variance is GRANTED.


Frank Cavanaugh, Chairman


Louis Dorsey, Jr., Vice-Chairman


Greg Gannon


Zakary A. Krebeck


Patrick Forrest