

BEFORE THE TALBOT COUNTY BOARD OF APPEALS

IN THE MATTER OF \* CASE NO. VAR-26-2  
KAY and WILLIAM \* VARIANCE REQUEST APPLICATION  
CLEAR (Non-Critical Area)

\* \* \* \* \*

The Board of Appeals (the “Board”) held a hearing on May 18, 2026, in the Bradley Meeting Room, Court House, South Wing at 11 N. Washington Street, Easton, Maryland to consider the application of Kay and William Clear (the “Applicants”). Applicants requested a variance for the property at 8665 Mullet Branch Rd., Easton, Maryland. Chairman Frank Cavanaugh, Board Members Meredith Watters, Keith Prettyman, Greg Gannon, Zakary Krebeck, and Board Attorney Lance Young were present. Board Secretary Christine Corkell and Planner Maddie Zaprowski appeared on behalf of the County.

**STATEMENT OF THE CASE**

The Applicants requested approval for four (4) Non-Critical Area Variances of the 100’ Expanded Stream Buffer for Steep Slopes to (1) construct a one-story 2,507 SF addition to the existing residence with an attached garage located entirely within the Expanded Buffer and measuring 184’ to the perennial stream, (2) construct a 325 SF rear deck and steps measuring 194.4’ to the perennial stream, (3) construct 241 SF of walkways measuring 199.6’ to the perennial stream, and (4) construct 1,522 SF of driveway measuring 217.6’ to the perennial stream.

**SUMMARY OF TESTIMONY**

The Applicants were represented by Brett Ewing of Lane Engineering, LLC. Mr. Ewing testified that the requested variances are necessitated by the unique physical characteristics of the subject property, which is encumbered by steep slopes and stream buffer. He emphasized that none of the proposed improvements would encroach any closer to the perennial stream than the existing residential footprint.

Mr. Ewing testified that the primary residential structure was legally constructed in 1983, prior to the enactment of the County’s current expanded stream buffer regulations. The Applicants have owned and lived adjacent to the subject property since the 1970s and are currently downsizing with the intent to reside on this property permanently. Mr. Ewing explained that the variance requests stem from the need to modernize and expand the existing home. Because the Applicants are aging, it is necessary to consolidate all primary living spaces onto a single floor.

Addressing the specific variance criteria, Mr. Ewing testified to the following:

The property features unique physical constraints, as the existing dwelling is surrounded by the 100-foot stream and steep slopes on three sides. Furthermore, an existing on-site sewage disposal drainfield restricts development on the remaining portion of the lot. Consequently, there is no alternative, compliant location on the property to construct necessary residential improvements without variance relief.

The need for the variances is not self-created. The home was lawfully established in 1983 before the implementation of the expanded stream buffer protections for steep slopes.

The Applicants are seeking these variances strictly for personal, residential use and accessibility, rather than commercial gain or greater profitability. Granting the variances will not harm the public interest, as the improvements will not extend closer to the stream than the existing structures, and the Applicants will obtain all mandatory County permits. Furthermore, the project will be engineered to ensure it does not generate soil erosion or cause an increase in stormwater runoff.

Mr. Ewing emphasized that the proposed locations represent the only viable configurations for the addition. Altering the layout to avoid the buffer would force construction directly into the active on-site sewage drainfield or push the residential footprint further into the neighboring agricultural fields. He noted that it is contrary to County policy to deplete active agricultural land. Given these site-specific constraints, the proposed layout represents the minimum adjustment necessary, and the modest nature of the improvements means any expansion of the existing structure would require variance relief.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

All Board members have visited the site, and this decision is based upon the Board's observations, as well as the testimony submitted by the Applicants and their representative. The Board finds that the requested variances meet the standards set forth in the Talbot County Code, § 190-58.3. The design is reasonable and it is apparent from the Board site visits that the site improvements will not be a detriment to the stream, which is within a forested area.

There is a dumpster on site with a sign indicating it was used in conjunction with Kevertin Pet Resort which is on the neighboring property to the east (8623 Mullet Branch Road) and is under common ownership with the Applicants. The dumpster is in the Stream Buffer. County Staff have notified Applicants that the dumpster will need to be removed from the Property because it is associated with an offsite business and the Board of Appeals approval for the kennel use specified that waste must be disposed of on site.

The Board addresses the standards for Non-Critical Area variances set forth in the Talbot County Code, § 190-58.3.

*A. Unique physical characteristics exist, such as unusual size or shape of the property or extraordinary topographical conditions, such that a literal enforcement of the provisions*

*of this chapter would result in practical difficulty or unreasonable hardship in enabling the applicant to develop or use the property;*

The Board finds that over half of the subject property is encumbered by the 100-foot Stream Buffer and steep slopes. A majority of the western portion of the lot is forested, and there is a sewage disposal drainfield that requires buffer. The original dwelling was constructed in 1983 prior to the stream buffer constraints. Literal enforcement of the ordinance would completely prevent Applicants from making reasonable use of their property through minor residential additions. There is no alternative, compliant space on the lot to expand the structure. The Board finds that these site constraints constitute a practical difficulty.

*B. The need for the variance is not based upon circumstances which are self-created or self-imposed;*

The practical difficulty results from the natural topography of the land, the flow of the perennial stream, and the placement of the existing home in 1983, all of which existed long before the adoption of the current Expanded Buffer regulations. The Applicants did not create the steep slopes, nor did they enact the subsequent buffer laws that retroactively restricted their property.

*C. Greater profitability or lack of knowledge of the restrictions shall not be considered as sufficient cause for a variance;*

The improvements requested are intended to accommodate the aging needs of the homeowners by maintaining living quarters to a single-story layout. The additions have a personal, residential purpose. The application is not motivated by a desire for greater profitability.

*D. The variance will not be contrary to the public interest and will not be a detriment to adjacent or neighboring properties;*

Granting the variances will have no adverse impacts on neighboring properties or the public interest. The Applicants own the immediately adjacent property to the east. The property to the north consists of dense forest and active agricultural fields, while the property directly south across Mullet Branch Road is also utilized for active farming. Due to the deep setback from the road and the dense, mature tree lines surrounding the development zone, the proposed home additions are completely screened from public view and adjacent neighbors. Furthermore, testimony establishes that the additions will not extend any closer to the perennial stream than the current structure, and proper stormwater and erosion controls will prevent any negative downstream environmental impacts, thereby preserving the public interest.

*E. The variance shall not exceed the minimum adjustment necessary to relieve the practical difficulty or unreasonable hardship.*

The Board notes that the collective variance requests will expand the square footage of structural improvements within the expanded buffer to approximately three times the size of the

original 1983 dwelling. The Board is satisfied with the testimony and site evidence that this represents the minimum adjustment necessary. Any expansion whatsoever requires a variance due to the home being enveloped by buffers and other constraints. Furthermore, the Board finds that compressing or shifting the footprint further out of the buffer is not feasible, as it would require building on top of the active sewage drainfield, or expanding into active prime agricultural fields. Because the County has a declared policy interest in preserving agricultural soils and avoiding drainfield failures, utilizing the proposed location is the most environmentally responsible option. Given that the stream is protected by a substantial, established woodland buffer, the actual environmental footprint of this single-story addition will be minimal.

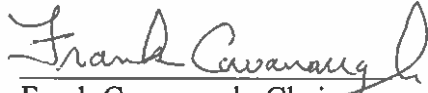
### Documents on Record

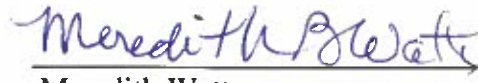
1. Application for Non-Critical Area Application.
2. Tax Map with subject property highlighted.
3. Notice of Public Hearing for Advertising.
4. Newspaper Confirmation.
5. Notice of Public Hearing with List of Adjacent Property Owners attached.
6. Non-Critical Area Variance Standards.
7. Staff Report by Maddie Zaprowski.
8. Sign Maintenance Agreement.
9. Authorization letter.
10. Independent Procedures Disclosure and Acknowledgement Form.
11. Aerial Photo.
12. Plat by Lane Engineering, LLC, Job No. 250205 dated 2/20/26.
13. Elevation Photos for proposed and existing.
14. Photos (4 pages) submitted by Maddie Zaprowski.

Mr. Prettyman moved that the variance be granted subject to staff conditions. Mrs. Watters seconded the motion. Based upon the foregoing, the Board finds, by a unanimous vote, that the Applicant's requests for variances are granted subject to the following conditions:

1. The Applicants shall make an application to the Office of Permits and Inspections, and follow all rules, procedures, and construction timelines outlined regarding new construction.
2. The Applicants shall commence construction of the proposed improvements within eighteen (18) months of the date of the Board of Appeals approval.
3. The Applicants shall remove the commercial dumpster on the Property.
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 8<sup>th</sup> day of June 2026, **ORDERED** that the Applicant's requests for variances are GRANTED.

  
Frank Cavanaugh, Chairman

  
Meredith Watters

  
Keith Prettyman

  
Greg Gannon

  
Zakary A. Krebeck