

BEFORE THE TALBOT COUNTY BOARD OF APPEALS

IN THE MATTER OF	*	CASE NO. VAR-25-2
MICHAEL S. and.	*	VARIANCE REQUEST APPLICATION
MELISSA A. BISON		(Non-Critical Area / State Highway)

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

The Board of Appeals (the “Board”) held a hearing on July 28, 2025, in the Bradley Meeting Room, Court House, South Wing at 11 N. Washington Street, Easton, Maryland to consider the application of Michael and Melissa Bison (the “Applicants”). Applicants requested six (6) State Highway setback variances for the property at 28536 Gilnock Road, Easton, Maryland. Chairman Frank Cavanaugh, Vice Chairman Louis Dorsey, Jr., Board Members Zakary Krebeck, Meredith Watters, Greg Gannon and Board Attorney Lance Young were present. Board Secretary Christine Corkell, Assistant Planner Bryce Yelton, Planner Andrew Nixon and Intern Julia Carlson appeared on behalf of the County.

STATEMENT OF THE CASE

1. The Applicants requested approval for six (6) Non-Critical Area Variances to permit the following items:

1. 500 gallon underground propane tank located at 48.3’ from the highway.
2. 143 SF patio at 82.1’ from the highway.
3. 53’ long retaining wall with pillars (55 SF) at 70.6’ from the highway.
4. 180 SF (15’ x 12’) storage shed at 134.9’ from the highway.
5. 648 SF swimming pool at 142’ with a 25 SF pool equipment pad at 126.2’ from the highway.
6. 746 SF pool patio at 134.1’ from the highway.

These requested variances pertain to the same renovation project for which the Applicants sought variances, and this Board approved variances, under Board Decision CAVR-23-4 dated July 17, 2023. That Decision also granted a Critical Area variance.

SUMMARY OF TESTIMONY

Michael Bison appeared on behalf of the Applicants. He explained that the Board previously, in 2023, granted both Critical Area and State Highway setback variances. The Applicants return to request an additional six State Highway setback variances.

The Property, built in 1951, requires a State Highway setback for almost any improvement that is made on the Property. The Property was developed prior to the current setback requirements, and its smaller size is not amenable to meeting the setbacks.

The Applicants did not previously realize that a needed propane tank is also considered a “structure” that requires a setback variance. Applicants were also advised that the improvement project would require a retaining wall, and amended patio improvement, for drainage purposes, as advised by their architect. The variance requests for a swimming pool and pool patio were previously granted by the Board in its 2023 Decision but the Applicants have not been able to complete those improvements within the required 18-month time frame. Finally, the Applicants wish to replace an existing outdated shed with a newer shed.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The property is non-conforming. Almost any improvement requires a State Highway setback variance because the non-conforming Property is almost entirely constrained by the State Highway setback. The Board is asked to renew already granted variances, in addition to necessary variances for propane, which the Property requires, and a retaining wall, which is necessary for drainage. The State High Administration does not oppose these variances, which the Board finds to be reasonable.

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 denial of the requested State Highway setback variances would deprive the property owner of a reasonable and significant use of the property. The property was built in 1951, prior to the implementation of the setback requirement. Because of the size of the property, a majority of it is within the setback.

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

The Board finds that the Applicant has not created the conditions or circumstances that result in the necessity for a variance.

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

The requested variances are not based on profitability or lack of knowledge. The Applicants are renovating the primary dwelling to better meet their needs.

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

The variance will not change the character of the neighborhood. The Board finds that the improvements will add to the aesthetics of the neighborhood. The proposal will meet the Rural Residential base zoning setbacks.

MDOT State Highway Administration, Henry Dierker stated that staff did not have any issues or concerns on the proposal.

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

The Board is satisfied that Applicant's architect has developed a plan for which the improvements made are the minimum necessary to renovate the property to suit the Applicant's needs. The proposed pool and detached garage are typical for the neighborhood. The design is such that there will not be any additional lot coverage within the Critical Area Buffer.

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
8. Sign Maintenance Agreement/Sign Affidavit.
9. Comments from State Highway from Henry Dierker, June 30, 2025.
10. Independent Procedures Disclosure and Acknowledgement Form.
11. Aerial Photo.
12. Photos (4)
13. BOA Decision No. 1500.
14. BOA Decision No. CAVR-23-4
15. Floor and Elevation Plans.
16. Plat by Davis, Bowen & Friedel, Inc., Project No. 4270, dated 05/16/24.


Mr. Gannon moved that the Applicant be granted the requested variances subject to staff conditions, and the motion was seconded by Zakary Krebeck. Based upon the foregoing, the Board finds, by a unanimous vote, that the Applicant's requests for variances are 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 construction timelines as outlined regarding new construction.

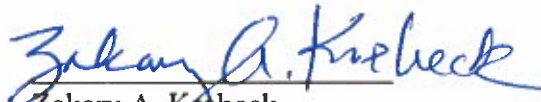
2. The Applicants shall commence construction of the proposed improvements within eighteen (18) months of the date of the Board of Appeals approval.

3. 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 6th day of August 2025, **ORDERED** that the Applicant's requests for a variance is GRANTED.


Frank Cavanaugh, Chairman


Louis Dorsey, Jr., Vice-Chairman


Zakary A. Krebeck


Meredith Watters


Greg Gannon