

BEFORE THE TALBOT COUNTY BOARD OF APPEALS

IN THE MATTER OF * CASE NO. CAVR-25-9
STEVEN AND LOUISE * VARIANCE REQUEST APPLICATION
RAUCHER (Critical Area)

* * * * *

The Board of Appeals (the “Board”) held a hearing on March 23, 2026, in the Bradley Meeting Room, Court House, South Wing at 11 N. Washington Street, Easton, Maryland to consider the application of Steven and Louise Raucher (the “Applicants”). Applicants requested a Critical Area variance for the property at 27873 Le Gates Cove Rd., Easton, Maryland (“Property”). Chairman Frank Cavanaugh, Vice Chairman Louis Dorsey, Jr., Board Members Meredith Watters, Jeff Adelman, Zakary Krebeck, and Board Attorney Lance M. Young were present. Board Secretary Christine Corkell and Planner Maddie Zaprowski appeared on behalf of the County.

STATEMENT OF THE CASE

The Applicants requested two Critical Area Variances to (1) remove three existing brick patios measuring a combined 204 square feet of lot coverage at a closest distance of 73 feet from the Mean High Water Line (MHWL) and to replace it with a 1,099 square foot at-grade pervious wooden deck located 68 feet from the MHWL, and (2) to allow for the retention of a 12 square foot concrete generator pad located 75’ from the MHWL. All improvements listed are completely within the 100’ Shoreline Development Buffer (Buffer) and the proposal results in a net decrease of 251 square feet of lot coverage in the Buffer.

SUMMARY OF TESTIMONY

Attorney Brendan Mulaney represented the Applicants. Steven Raucher provided testimony. Applicants are owners of 27873 Le Gates Cove Road, LLC, which owns the Property and Applicants reside at the Property.

Mr. Raucher’s testimony is that the Applicants desire to remove three brick stoops outside of three doors on the Property and replace those impervious brick stoops with a pervious deck that is accessible from all three doors. The house was constructed in 1968. Applicants purchased the property in 2025.

Applicants intend to reside in the house permanently. Louise Roucher’s parents will live with them in the house. Louise’s mother has Parkinsons Disease, and her father (Anthony Goldman) has mobility restraints. Mr. Goldman’s mobility restraints are documented by doctor’s letters that the Applicants submitted as Hearing Exhibit #3. The reason for a deck to

replace the brick stoops is largely derived from the need to allow the elderly parents to have a flat, stable surface to enjoy the outdoors. The deck will allow the entire family to enjoy meals and sit on the deck during warm months.

Mr. Mulaney explained that prior owners of the Property installed fences within the buffer and the Raucher's have taken those down. They have also demolished illegally placed concrete pads. The only illegal structure they have not demolished is a necessary concrete pad that supports a generator and they seek a variance for that existing structure. Applicants have voluntarily added plantings on the Property, including a weeping willow tree and large flower garden. They will need to cut down some trees to install a pool, which is not in the Buffer, and plan to compensate for that vegetative loss by planting along the shoreline. They plan to plant at least 66 trees.

Mr. Mulaney addressed the statutory criteria for obtaining a variance. He also submitted a written narrative of the same, which the Board has considered and incorporates into this decision.

The unwarranted hardship is derived from the nonconforming status of the Property, which was developed in 1968 prior to the Critical Area Law. It prohibits the Applicants from reasonably removing impervious surface, which is more harmful to the Chesapeake Bay, and replacing it with pervious surface, which will benefit stormwater reduction into the Chesapeake Bay. Failure to obtain a variance will prevent Louise Raucher's parents from enjoying the outdoors at the residence. Mr. Mulaney provided an Exhibit #4, which demonstrated that most homes in the area commonly have decks on the sides of houses that face the water.

Applicants contend that the deck is the minimum necessary, with regards to width and size, because of the design of the house. The removal of the brick stoops will require access from the three doors of the house. The Critical Area Commission provided written correspondence that, in its determination, is not the minimum necessary. The Applicants counter that it is the minimum necessary to allow for aging parents to access the outdoors and provide a space the entire family can congregate to enjoy the outdoors.

Sean Callahan, of Lane Engineering, provided expert testimony. He testified regarding stormwater management. He testified that the reduction in impervious areas that this project will provide is a benefit to water quality and that the deck proposed is a reasonable addition for the home it is proposed for. The new deck construction will infiltrate rainwater, not cause runoff.

The Applicants signed a Pervious Deck Agreement with the County agreeing to install decking with a minimum ¼" spacing between the decking strips, to install approved native plants around the perimeter of the deck, and to not install gravel or any other impervious materials under the deck.

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 and written responses submitted by the Applicant.

The Board grants a variance for the concrete pad that supports a generator. It existed prior to the Applicant's purchase of the home and is necessary to support the generator.

The Board addresses the standards for a Critical Area variance set forth in the Talbot County Code, § 190-58.4. These findings are applicable to both requested variances, although the specifics of the deck variance are more fully addressed herein. The Board is persuaded by the fact that the project will result in a net reduction of impervious surface and that the Applicants are taking other measures to reduce impact on the environment, such as improvements to the septic system and plantings that are not required as mitigation. The Board is also satisfied that the proposed deck is no more than necessary to support the Applicant's family and is a common feature for homes in the vicinity.

1. *Special conditions or circumstances exist that are peculiar to the land or structure such that a literal enforcement of the provisions of this chapter would result in unwarranted hardship.*

The Property is a legal nonconforming lot developed in 1968, long before the enactment of the Critical Area Law. The existing residence features three separate brick stoops within the 100-foot Buffer that are impervious and disconnected. Strict enforcement of the Buffer requirements would prevent the removal of these outdated, impervious structures and their replacement with a unified, pervious surface. This creates an unwarranted hardship by denying the Applicants the ability to provide a safe, stable, and accessible outdoor environment for elderly family members with documented mobility restraints and Parkinson's Disease, which is a unique circumstance of the current residential use. The Board finds that the deck cannot be placed elsewhere to serve its purpose without completely moving the house out of the Buffer.

2. *A literal interpretation of the Critical Area requirements will deprive the property owner of rights commonly enjoyed by other property owners in the same zoning district.*

Evidence submitted by the Applicants (Exhibit #4) demonstrates that decks facing the water are common features for residential properties in the immediate vicinity. Denying the Applicants the ability to install a pervious deck to replace existing brick patios would deprive them of the right to enjoy a standard outdoor amenity and reasonable access to their rear yard, which is a right enjoyed by neighbors whose properties were similarly developed or situated.

3. *The granting of a variance will not confer upon the property owner any special privilege that would be denied to other owners of lands or structures within the same zoning district.*

The granting of this variance does not constitute a special privilege, as the proposed deck is at-grade and pervious. The project actually results in a net decrease of 251 square feet of lot coverage within the Buffer. Furthermore, the retention of the 12-square-foot generator pad is a common necessity for modern residential safety. Any owner in the same district with a pre-

existing nonconforming structure who proposes a plan that improves water quality and provides accessibility for disabled residents would be eligible for similar consideration.

4. *The variance request is not based on conditions or circumstances which are the result of actions by the applicant, including the commencement of development activity before an application for a variance has been filed, nor does the request arise from any condition relating to land or building use, either permitted or nonconforming, on any neighboring property.*

The hardship arises from the 1968 siting of the house and the pre-existing brick stoops, neither of which were created by the current Applicants, who purchased the property in 2025. The Applicants have acted in good faith by removing unauthorized fences and concrete pads installed by prior owners. The generator pad was also in a pre-existing condition. The request is necessitated by the existing footprint of the home and the medical needs of the family, not by any recent unauthorized development by the Applicants.

5. *The granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat, and the granting of the variance will be in harmony with the general spirit and intent of the state Critical Area Law and the Critical Area Program.*

Expert testimony from Sean Callahan, from Lane Engineering, confirms that the project is a net benefit to water quality. The transition from impervious brick to a pervious wooden deck with a ¼" spacing will allow for superior infiltration and a reduction in runoff. The Applicants' commitment to planting trees and maintaining a "Pervious Deck Agreement" ensures that the spirit of the Critical Area Law, protecting the Chesapeake Bay through vegetative cover and stormwater management, is not only met but enhanced.

6. *The variance shall not exceed the minimum adjustment necessary to relieve the unwarranted hardship.*

While the Critical Area Commission questioned the size of the deck, the Board finds the 1,099 square foot at-grade deck to be the minimum necessary to bridge the three existing exits of the home into a single, level, and safe surface for family members with mobility issues. Given the house's architectural design and the specific need for wheelchair or walker stability for the elderly residents, a smaller or fragmented deck would not resolve the hardship. The design utilizes the minimum footprint required to provide functional, safe outdoor access while simultaneously reducing overall lot coverage.

7. *If the need for a variance to a Critical Area provision is due partially or entirely because the lot is a legal nonconforming lot that does not meet current area, width or location standards, the variance should not be granted if the nonconformity could be reduced or eliminated by combining the lot, in whole or in part, with an adjoining lot in common ownership.*

The Board finds that this criteria is not applicable.

Documents on Record

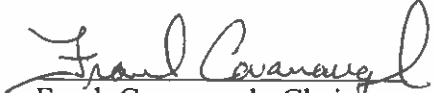
1. Application for a Critical Area variance.
2. Tax Map with subject property highlighted.
3. Notice of public hearing for advertising.
4. Newspaper confirmation.
5. Notice of public hearing with list of adjacent property owners attached.
6. Critical Area variance standards.
7. Staff Report by Maddie Zaprowski.
8. Sign maintenance agreement.
9. Critical Area Commission Comments.
10. Authorization letter.
11. Independent Procedures Disclosure and Acknowledgement Form.
12. Aerial photos.
13. Deed.
14. Lot coverage sheets.
15. Pervious deck agreement.
16. Photos (5).
17. Violation Letter, Order to Abate from James Mullikin, dated 11-12-25. Attached Assessment of Civil Penalty, Email from James Mullikin dated 1-12-26, and paid receipt.
18. Elevation and Floor Plans.
19. Site Plan from Lane Engineering, LLC. Job. No. 250317.
20. Applicant Hearing Ex.#1 – Authorization Letter.
21. Applicant Hearing Ex. #2 – Deed.
22. Applicant Hearing Ex. #3 – Letters from Orthopedics doctors.
23. Applicant Hearing Ex. #4 – Aerial photos.

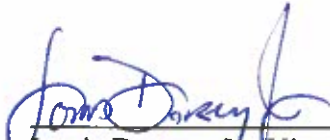
Mr. Adelman moved to approve the Critical Area Variances subject to Staff conditions. Mr. Krebeck seconded the motion, and it was unanimously approved.

Based upon the foregoing, the Board finds, by a unanimous vote, that the Applicant's requests for variances are granted subject to the following additional 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.

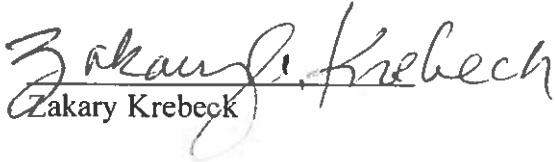
IT IS THEREFORE, this 13th day of April 2026, ORDERED that the Applicant's requests for variances are GRANTED.


Frank Cavanaugh, Chairman


Louis Dorsey, Jr., Vice Chairman


Meredith Watters


Jeff Adelman


Zakary Krebeck