

**BEFORE THE TALBOT COUNTY BOARD OF APPEALS**

IN THE MATTER OF \* CASE NO. VAR-22-4  
TAMMY GOLDSTON-JOHNSON \* VARIANCE REQUEST APPLICATION  
\* \* \* \* \*

The Board of Appeals (the “Board”) held a hearing on December 12, 2022 in the Bradley Meeting Room, Court House, South Wing at 11 N. Washington Street, Easton, Maryland to consider the application of Tammy Goldston-Johnson (the “Applicant”). The Applicant requested an after-the-fact variance at 21441 Dogwood Cove Road., Tilghman, MD 21671. Chairman Frank Cavanaugh, Vice Chairman Louis Dorsey, Jr., Board Members Paul Shortall, Jeff Adelman, Zakary Krebeck, and Board Attorney Lance M. Young were present. Planning and Zoning Director Brennan Tarleton appeared on behalf of the County.

**STATEMENT OF THE CASE**

The Applicant requested an after-the-fact variance to permit an existing 24’ x 24’ prefabricated detached garage to be located within the required 10’ side yard setback to be 7.6’ from the property line at its closest point. The property is in the Village Mixed (VM) zoning district.

**SUMMARY OF TESTIMONY**

Attorney Zach Smith appeared on behalf of the Applicant. Mr. Smith addressed the issue that the variance is being sought after the fact. The detached garage structure has already been placed on the property. According to Mr. Smith, the garage was not placed on the property with the intent of violating the County zoning ordinance. The garage is prefabricated and the contractor that sold the garage to Applicant erroneously represented that County zoning approvals were not necessary because it would not be permanent structure. The Applicant obtained other necessary permits, including a building permit and electrical permit, which supports the conclusion that the structure was not placed on the property with the intent of going unnoticed.

Notwithstanding the after the fact nature of the variance, Mr. Smith explained that the criteria for a variance are met under the circumstances. The property is burdened by its shape and location. The lot is rectangular and narrow. The house is positioned at, or near, the Critical Area buffer. The rear yard is within the Critical Area buffer and so the garage could not be located in the rear. The property frontage is along MD-33 and Dogwood Cove. If the garage were placed on the north side of the property, it would affect the view of a neighbor.

The garage is constructed on the south side of the property abutting the Wylder Hotel, a commercial property. There is a commercial parking lot on the other side of the garage. The owner of the Wylder Hotel, John Flannigan, supports the variance. The current location of the garage is the best suited location because it does not adversely impact any neighbor or infringe

upon Critical Area buffer. It also blocks the lights and view of the parking lot to the benefit of Applicant. Applicant and the Wylder Hotel have an agreement to extend a privacy fence between the properties.

The Applicant, Ms. Goldston-Johnson, also testified. She confirmed that the placement of the garage on the property before getting a variance was not intentional. She has complied with all other County permitting requirements. The garage was placed at its current location because it does not block water views of nearby residents. Stormwater management will be addressed as part of the Applicant's building permit.

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

The Board finds that the Applicant has satisfied the standards for granting a variance.

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 is narrow. The rear of the property is in the Critical Area Buffer. The location to the south is the best suited location for a garage because it is adjacent to the existing dwelling on the lot and does not impede water views of neighbors. The garage also acts as a buffer between the residential property and the neighboring commercial property. Moving the garage 2.4' to comply with the required 10' setback would not make any practical difference.

B. The need for a variance is not based upon circumstances which are self-created or self-imposed. The variance is not brought for the purpose that the garage is already constructed on the property. The reasons for a variance are independent of the fact that it is being sought after the fact.

C. The variance is not requested for greater profitability or lack of knowledge of the restrictions. The variance is for the purpose of retaining the existing garage structure and the proposal is the best feasible location, in the opinion of this Board, but requires a variance.

D. The variance is not contrary to the public interest and will not be a detriment to adjacent or neighboring properties. Garage structures of this nature are customary in the area where the garage is constructed. The adjacent property owner that is affected by the garage supports the variance so long as a privacy fence is extended to further screen the garage.

E. The variance will not exceed the minimum adjustment necessary to relieve the practical difficulty or unreasonable hardship. Requiring the Applicant to move the garage 2.4' would require significant effort and relocation of electrical wiring. The movement would have little, if any, practical effect.

Vice Chairman Dorsey moved that the Applicant be granted the requested variance subject to staff conditions and the motion was seconded by Mr. Adelman. Based upon the foregoing, the

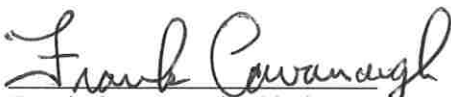
Board finds, by a unanimous vote that the Applicant's request for a variance is granted subject to staff conditions.

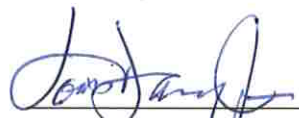
1. The Applicant shall continue their application BP-22-238 with the Office of Permits and Inspections, and follow all rules, procedures, and construction timelines as outlined regarding new construction.

2. The Applicant shall provide all necessary information pertaining to the continuance of the permitting process within 30-days after the appeal period of the final decision issuance from this Board.

3. The Applicant shall abide by any fence extension agreement that it may have or make with the Wylder Hotel property owner.

**IT IS THEREFORE**, this 6th day of January, 2023, **ORDERED** that the Applicant's request for a variance is GRANTED.

  
Frank Cavanaugh, Chairman

  
Louis Dorsey, Jr., Vice-Chairman

  
Paul Shortall, Jr.

  
Zakary A. Krebeck

Signature on attached page  
Jeff Adelman

Board finds, by a unanimous vote that the Applicant's request for an after-the fact variance is granted subject to staff conditions.

1. The Applicant shall continue their application BP-22-238 with the Office of Permits and Inspections, and follow all rules, procedures, and construction timelines as outlined regarding new construction.

2. The Applicant shall provide all necessary information pertaining to the continuance of the permitting process within 30-days after the appeal period of the final decision issuance from this Board.

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