

**MEETING MINUTES  
BOARD OF ZONING APPEALS  
FOR CAROLINE COUNTY, MARYLAND**

**DATE:** February 18, 2020

**PLACE:** Health & Public Services Building  
403 S. 7<sup>th</sup> Street, Room 111  
Denton, Maryland 21629-1335

**BOARD MEMBERS  
(PRESENT):** Michael Mann, Chairman  
Mary Leavell, Vice-Chair  
Karen Hardy, Member  
Benjamin Butler, Alternate

**ALSO, PRESENT:** Crystal Dadds, Assistant Director of Codes  
Robert Merriken, Board Attorney  
Melanie Smith, Board's Administrative Assistant

Chairman Mann called the Caroline County Board of Zoning Appeals to order at 6:00 PM.

**KACZYNSKI VARIANCE #19-0027**

Chairman Mann read the Notice of Public Hearing into the record. Matthew and Amanda Kaczynski are requesting approval to construct a 24' x 46' master suite and garage addition within the 100-foot Chesapeake Bay Critical Area buffer and closer to the side property line than the minimum required setbacks. The property is located at 20760 Tammuxzena Drive, Preston, MD.

Ms. Dadds read the exhibits into the record:

- Exhibit 1 – Notice of Public Hearing in Times Record on 2/5/2020 & 2/12/2020
- Exhibit 2 – Staff Report
- Exhibit 3 – Variance Application
- Exhibit 4 – Aerial Photograph
- Exhibit 5 – Site Plan by Davis, Bowen & Friedel, Inc
- Exhibit 6 – Photographs of Property taken on 2/3/2020
- Exhibit 7 – SDAT Tax Map & Real Property Data Sheet M52-G7-P266-L5
- Exhibit 8 – Water & Sewer Verification
- Exhibit 9 – List of Notified Adjoining Property Owners
- Exhibit 10 – Sign Posting Affidavit and Photo
- Exhibit 11 – Applicant's Notice
- Exhibit 12 – Critical Area Commission Letter

Chairman Mann swore in:

Matt Kaczynski, 20760 Tammuxzena Drive, Preston, MD.

Mr. Kaczynski testified that they bought the property in 2011 and have done nothing to it except remodel a bathroom. The house was constructed in 1975 which predates Critical Area law.

He referred to the site plan and photographs of the property as he testified. He explained that, in 1975, 3-4-bedroom homes were not typically constructed, and neither were attached garages. They have four girls with three girls attending school. One of the additional rooms will be for them to have as a study.

Mr. Kaczynski explained that he will also need a variance to the side yard setback to construct the proposed addition. To minimize the disturbance within the buffer he is removing an existing shed, but construction will still be 14 feet from the side property line.

His property is entirely within the Critical Area and there is a stream that runs through the property in such away as to divide the lot in half. The septic system is located in the front yard and cannot be built upon and the well is in the rear yard. For these reasons he only has a buildable area of 30,000 square feet even though the property is a little over an acre. There is a small area on the west side of the parcel that is in the 500-year floodplain, which is not a special flood hazard. If the house was located in the 100-year floodplain he would have had to meet the floodplain regulations.

Mitigation for buffer impacts must be provided at a ratio of 3 to 1 for permanent disturbance and 1 to 1 for temporary disturbance. There are two trees located outside of the buffer that may wind up dying within five years due to root disturbance during construction. There is also a large oak tree located behind the proposed construction that Mr. Kaczynski hopes is deeply rooted enough to survive as he would like for this tree to remain. If they must be replaced, mitigation must occur as per COMAR regulations.

There is a tree close to the project that is actually on his neighbor's property that should probably be removed due to the damage it received during past storms.

Mr. Kaczynski showed how the addition will be built mostly over an existing driveway. He will only be extending out five feet beyond the driveway to the rear of the house resulting in a small increase in impervious surface. If he were to build anywhere else on the property it would impact the buffer significantly more.

Ms. Hardy asked if there was enough swing to allow his vehicles entry to the garage. Mr. Kaczynski stated that he did take that into consideration and understands that it would be a little tight. He tried to design it to have the entrance in the front, but the septic drainfield made that difficult. To correct that he would need to extend the house another ten feet and would not be approved for a Variance. Their spacial need is great enough to overlook this small inconvenience.

He just put in a new BAT septic system in 2011. Mr. Kaczynski just renewed his service contract on the septic system and an inspection is now required before the Health Department can approve the Water-Sewage Verification.

## DELIBERATION

The Board referred to Chapter 175, Article XVII, Section 152.B, D for the conditions of an Area Variance.

D.

(1) A written application for a variance has been submitted; *See Exhibit 3*

(2) A duly advertised public hearing has been held; *See Exhibit 1*

(3) The Board has considered the application and rendered a decision in accordance with the following principles and requirements:

- (a) The granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to adjacent property, the character of the neighborhood or the public health, safety or welfare;

*There was no testimony that the construction would devalue or be restrictive to the neighboring property owners*

- (b) Such difficulty is not the result of or does not arise from conduct of the applicant or the applicant's predecessor in interest;

*The home was built in 1975 prior to the critical area law that now prohibits construction within its buffer.*

- (c) The condition, situation or intended use of the property concerned is not of so general or recurring a nature as to make practicable a general amendment to this chapter;

*The property is unique in that less than 10 percent of homes are located within the Critical Area Buffer. The stream dividing the property is also unique. Therefore, it would not be practicable to amend the chapter.*

- (d) The variance granted is the minimum necessary to afford relief;

*Mr. Kaczynski will move a shed to lessen the impact to the critical area buffer and is putting most of the new construction over the existing driveway*

- (e) The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife or plant habitat with the Critical Area, and that the granting of the variance will be compatible with the Critical Area Program for Caroline County, the Critical Area Law and this chapter.

*See Exhibit 12*

B.

- (1) Such difficulty is a result of special conditions and circumstances not generally shared by other properties in the same zoning district or in the same neighborhood and is peculiar to the property, structure or building for which the variance is requested;

*The home is located totally within the critical area buffer and a stream divides the property in half causing one half to be unbuildable.*

- (2) Such difficulty is not the result of or does not arise from conduct of the applicant or the applicant's predecessor in interest;

*The home was built in 1975 prior to the critical area law that now prohibits construction within its buffer.*

- (3) The financial hardship to the applicant as the result of the strict enforcement of the zoning regulations in question may be considered by the Board only when such financial hardship is severe and only when and if the above conditions have been found to exist; the financial hardship alone cannot serve as a basis for granting an area variance;

*This application did not involve financial hardship.*

- (4) The granting of the variance satisfies the general requirements set forth in Subsection D.

- (5) The granting of the variance is subject to any additional requirements imposed by the Board pursuant to Subsection E below.

*The Board had no additional requirements to impose.*

**Motion:** Ms. Leavell made a motion to approve the application on the condition that a Building Permit and/or Zoning Certificate will be required prior to any proposed development and must be accompanied by all the necessary documentation and site plan requirements.

**Second:** Ms. Hardy seconded the motion.

**In Favor:** The motion was approved unanimously (3-0).

## REVIEW AND APPROVALS

The members read the written decision for the Hovland Variance application #19-0023.

**Motion:** Ms. Leavell made a motion to approve and sign the decision for the Hovland Variance #19-0023.

**Second:** Ms. Hardy seconded the motion.

**In Favor:** The motion was approved unanimously (3-0).

The members read the minutes of the January 21, 2020 Board of Zoning Appeals meeting.

**Motion:** Ms. Leavell made a motion to approve the minutes as written.

**Second:** Ms. Hardy seconded the motion.

**In Favor:** The motion was approved unanimously (3-0).

## ADJOURNMENT

**Motion:** Ms. Leavell made a motion to adjourn the meeting at 6:33 p.m.

**Second:** Ms. Hardy seconded the motion.

**In Favor:** The motion was approved unanimously (3-0).

The meeting was adjourned at 6:33 p.m.



Minutes prepared by Melanie Smith