

BOARD OF ZONING APPEALS
MEETING MINUTES

Monday, December 13, 2021

Remote Meeting – 6:00 p.m.

I. CALL TO ORDER

Chairman William Harvey convened a remote meeting of the St. Michaels Board of Appeals (BOZA) at 6:00 p.m. via Zoom. Present were Members Douglas Rollow and John Hunnicutt, and Zoning Officer Kymberly Kudla. Zach Smith and Ken Fox were also present as the applicants. Chairman Harvey referenced the Emergency Ordinance No. 518, under which the remote meeting was being conducted and the Rules of Procedure for this proceeding, adopted December 22, 2008, which he noted were available in the Town Office and on the Town's website.

II. BOZA 21-606 – 308 Watkins Lane, Inn at Perry Cabin LLC– Zach Smith, applicant's representative - Request for a Variance from the Critical Area Buffer Requirements as outlined in Town Code, Chapter 340-24

Chairman Harvey noted Exhibits 1-16 into the record, which were compiled and appended to the applicants' application, and are made a part of these minutes. Ms. Kudla said there were no additional exhibits. Chairman Harvey and Members Rollow and Hunnicutt stated that they had visited the property.

Chairman Harvey then swore in all those intending to testify and outlined the code criteria on which the Board must base its decision. Zoning Officer Kym Kudla testified that she had not received any public inquiries or requests for participation in this proceeding.

Ms. Kudla then referenced her staff report on the case, noting that the applicant had submitted a revised site plan since her report, which reduced the area affected from 130 square feet of encroachment to 48 square feet, and she had amended her report to reflect this change.

Zach Smith said much of the Perry Cabin property predates the Critical Area Program and some of the existing structures are legally non-conforming. There was a discussion of the applicant's intent to square off the corner of the patio area/walkway to accommodate a permanent tent structure for events. The members discussed whether pervious pavers were an option where the squared off patio encroached on the buffer. Ms. Kudla also outlined the Commissioners' recent moratorium on permanent tent structures. Chairman Harvey reiterated that the applicant's request was only to square off the patio and not for the tent. Ms. Kudla affirmed that and noted that the applicant could potentially come back later for the tent or a different structure.

Chairman Harvey also clarified that the applicant had amended the original variance request and reduced that encroachment area requested by half, which was the minimum required variance to grant the relief being sought. The members discussed the buffer area affected and what the applicant had already done to mitigate any adverse environmental impacts. Mr. Smith said he felt that the prior mitigation and the amended proposal were a good faith effort to address the concerns of the Critical Area Commission and that the buffer encroachment had been minimized and would have little impact to the surrounding environs.

Chairman Harvey had a few other clarifying questions, after which he called for additional questions or comments from the members. Member Rollow had objections to the variance due to the expanded size of the patio and the possible addition of a temporary or a permanent tent. Mr. Smith said that operational concerns were the driving force for the variance request. Chairman Harvey then closed the public portion of the hearing and opened deliberations. Chairman Harvey said he felt that the collective mitigation that the Inn had already done, plus the scaling back of the patio plans were sufficient to meet five of the six criteria for granting of the variance. He had some reservations about criteria No. Four and called for comment from the other members. Member Hunnicutt said he had no concerns. Member Rollow said he felt the request was primarily based on aesthetics and he therefore couldn't find favor in allowing the variance. Chairman Harvey did bring up the pandemic, commenting that fresh air and more space between people was still a consideration and should be factored in. Member Hunnicutt then made a motion to grant the variance. Chairman Harvey seconded it and called for additional comment. Member Hunnicutt said the objections did not outweigh past and current efforts to mitigate environmental impacts for the property as a whole or for the additional 46 square feet necessary to square off the patio space.

The members then voted 2 to 1 in favor of the granting the variance, with Member Rollow voting "nay." Chairman Harvey said he would formulate the Findings of Fact and distribute a draft to the members. Ms. Kudla said she would draft her final report in which she would include the Findings of Fact for approval and signature by the members. Zach Smith thanked the members for their consideration on behalf of the applicants.

III. Approval of Minutes

- June 14, 2021 – Mitchell Street

Member Rollow made a motion to approve the minutes of June 14, 2021, which was seconded by Chairman Harvey, and which then passed on a voice vote of 3-0 in favor.

- August 9, 2021 – Connor Street

Member Rollow made a motion to approve the minutes, which was seconded by Chairman Harvey, and which then passed on a voice vote of 2-0 in favor. [Member Hunnicutt was not in attendance for this meeting.] Chairman Harvey thanked Ms. Kudla and Meeting Coordinator Kim Weller for hosting this remote meeting of the Board of Appeals.

IV. Adjournment

The meeting was adjourned at 6:42 p.m.

Minutes approved by 3:0 vote in favor on the 10th day of January, 2022



William C. Harvey III, Chairman