



Board of Zoning Appeals
Department of Planning, Housing, and Zoning

MINUTES

October 20, 2025

5:00 PM

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The Board of Appeals met October 20, 2025, at 5:00 p.m. in the County Commissioners' Hearing Room.

Board members in attendance were Chair John Massey, Member David Hill, and Member Rob Davis.

Elissa Levan, Esq., Board Attorney; Carla Gerber, AICP, Deputy Director; Robert Tracey, AICP, Associate Planner; and Beth Grieb, Office Manager, serving as Clerk attended.

Representative for Charles B. Schottland's included the applicant himself, Charles Schottland (appearing by phone).

Representatives for Lawrence and Donna Miller included the applicant himself, Lawrence Miller, and Buck Nickerson, LS, Extreme Measures, LLC.

Representatives for Gregory and Jordyn Crossley included the applicants themselves, Greg and Jordyn Crossley.

The meeting was called to order at 5:00 pm by Chair John Massey.

MINUTES

Motion: A member moved to approve the minutes from September 15, 2025. A member seconded. The motion passed unanimously.

APPLICATIONS FOR REVIEW

25-23: Charles B. Schottland - Variance - Pier Length

7989 Quaker Neck Road, Chestertown - Seventh Election District - Zoned CAR

Public Notice Information: Clerk Beth Grieb read into the record that the public notice was printed in the Kent County News on October 16, 2025. Letters were sent to the adjacent property owners on August 15, 2025. The property was posted on August 20, 2025. No correspondence was received.

Applicant Testimony: Charles B. Schottland (7989 Quaker Neck Road, Chestertown) testified by phone. Mr. Schottland requested a variance to construct a 250-foot pier, explaining that he has great difficulty getting his boat in and out of the dock due to low tide conditions. He stated that water levels are often

Adopted on November 17, 2025

much lower than in the past, frequently only 1-2 feet at low tide. Mr. Schottland indicated that at low tide, the water depth is approximately 2 feet, and his 30-foot dual-engine Scout boat requires about 1.5 to 2 feet to safely run the engines. He explained there are many times when he cannot get the boat back in and must be very careful with the tides. The existing dock is old and needs replacement. Mr. Schottland noted the property is currently for sale, but he plans to complete installation of a new, longer dock to make the property more saleable and improve usability and safety. He explained that he has been working with Duncan Welsh of Chesapeake Boat Lift Service.

Board Discussion: Board members questioned the practical difficulty for the variance. Board Attorney Elissa Levan explained that practical difficulty means whether compliance with the strict letter of the regulations would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such regulations unnecessarily burdensome, whether the granting of the variance would do substantial justice to the applicant as well as to other property owners in the district, whether a lesser relaxation than applied for would give substantial relief and be more consistent with justice to other property owners, and whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

The Board discussed that the tide conditions affect all properties along the river, and members expressed difficulty finding a practical difficulty specific to this property. Members noted that according to the engineering schematic (page 21 of the packet), the water level at the end of the present dock is 5 feet, though the applicant indicated this would be at high tide and that low tide is approximately 2 feet.

Reference to Neighbor: Mr. Schottland mentioned that his next-door neighbors at 7987 Quaker Neck Road (the Tinsley family) had installed a new dock approximately 2 summers ago that extends considerably further out than his. Board members confirmed this was a previous application that had been denied.

Staff Report: Mr. Rob Tracey, AICP, Associate Planner, testified that the application before the Board was for a variance for pier length. The Planning Commission reviewed this application on September 15, 2025, and made a favorable recommendation for a pier of reduced length at 235 feet. The Planning Commission came to this recommendation after discussion of the practical difficulty, siltation due to farmland, relative length of neighboring piers, and boating traffic.

Property Sale Discussion: Board members discussed that the property is currently for sale and questioned whether improving marketability constitutes a valid reason to deviate from the ordinance. Mr. Schottland explained he is looking to move as soon as the house sells and has purchased a place in Easton, but that his realtor suggested the house would be much more saleable with a new dock.

Legal Standards: Ms. Levan explained that the ordinance requires finding that practical difficulty arises from unusual conditions of the land. The ordinance states that practical difficulty must be caused by unusual characteristics of size or shape of the property, extraordinary topographical or other condition of the property. The practical difficulty cannot have been caused by the applicant's own actions, and reasonable use of the entire parcel must be considered. Ms. Levan noted that this criterion regarding development of immediately adjacent property does not apply in the critical area.

Mr. Tracey confirmed that under Article 3, Section 2.123 of the Kent County Unified Development Ordinance, private piers are permitted as an accessory use only when the pier does not exceed 25% of the width of the waterway, the edge of the channel, or 150 feet in length, whichever is less.

Motion: Mr. Hill moved to deny the variance for pier extension for Charles B. Schottland at 7989 Quaker Neck Road, Chestertown, Maryland 21620, finding that a practical difficulty based on the County codes was not demonstrated. Mr. Davis seconded. The motion passed unanimously.

25-45: Lawrence and Donna Miller - Buffer Variance

10129 Cove Road - Sixth Election District - Zoned CAR

Public Notice Information: Clerk Beth Grieb read into the record that the public notice was printed in the Kent County News on October 16, 2025. Letters were sent to the adjacent property owners on September 12, 2025. The property was posted on September 15, 2025. No correspondence was received.

Applicant Testimony: Lawrence Miller (10129 Cove Road, Chestertown) and Buck Nickerson (23680 Ricauds Branch Road, Chestertown) testified. The representatives explained that this waterfront property in Great Oak was created around 1958, with the house built in 1974. The Millers purchased it in 1989. The 100-foot buffer goes through the middle of the existing house. A variance was approved by this Board in 2023 for a 467 square foot addition, but that addition was deemed not large enough.

The applicants explained they need to add an addition on the side of the house. The practical difficulty is that this end of the house is the most reasonable spot for the addition, but a BAT nitrogen removal system (a very expensive system) is located to the back of the house outside the buffer, which prevents moving the addition back away from the buffer. The addition will be further away from the water than the existing house.

Mr. Miller explained the sizing issue: he initially designed the addition himself to save costs and measured the furniture they would be moving from Philadelphia. Everything seemed to fit, but when they got to the point of accurately measuring for a washer and dryer (so they wouldn't have to go down to the basement as they age), along with the pipes behind it and the size of the walls, plus the timber frame company's design requirements, he realized it wouldn't work. They need to go 4 feet further out, not toward the water but wider, to make the furniture and appliances fit properly.

Regarding the delay since the 2023 approval, Mr. Miller explained they are using Hugh Lofting Timber Framing in Kennett Square. The company's entire workshop burned to the ground, so they had been working out of a trailer and a barn. They have now rebuilt and have all their equipment, and the Millers are in the queue to get the work done. Additionally, Mrs. Miller's mother died, they lost two great friends, and Mr. Miller turned 70, which affected their focus on getting the project completed.

Request: The request is to take the previously approved 467 square foot addition and increase it to 580 square feet, approximately 100 additional square feet. The addition extends sideways (parallel to the water), not closer to the water. No trees need to be removed; it is a barren area of the property.

Board Findings: The Board discussed the required findings for a variance in the Critical Area:

- The grant of this variance will be in harmony with the general spirit and intent of the critical area laws and regulations adopted by Kent County.
- The granting of the variance will not adversely affect water quality or impact fish, wildlife, or plant habitat.
- The application for variance was made in writing and copies were provided to the Critical Area Commission.
- The literal interpretation of the ordinance would produce an unwarranted hardship, as the applicants want to be able to stay in their home as they age.
- The authorization of this variance will not be a substantial detriment to adjacent property, and the character of the district will not be changed by the granting of this variance. The addition is not going closer to the water.
- Special features of the site include the BAT system that is in the way if they try to go back from the buffer.
- Half of the house is already in the Critical Area buffer.

Staff Report: Mr. Rob Tracey, AICP, Associate Planner, testified that this is a buffer variance heard at the September 15, 2025, Planning Commission meeting. The Planning Commission discussed the practical difficulty: a large portion of the house is already in the buffer, and the septic system in its current location would prevent them from moving away from the water. The Planning Commission sent a favorable recommendation to this Board with three conditions:

1. Approval of a buffer management plan to mitigate for the permanent disturbance in the buffer at a ratio of 3 to 1 and to mitigate for the increase of lot coverage outside of the buffer at a ratio of 1 to 1.
2. Installation of buffer plantings is to be located between the improvements and the shoreline.
3. Requirements for the Kent County Health Department: the location of the well is to be shown on the site plan.

The applicant has submitted a buffer management plan on file. The Critical Area Commission provided a letter not opposing the application. This application was also reviewed in 2023; this version is slightly bigger but is not moving forward towards the water. The Planning Commission felt the practical difficulty with the septic system was grounds for a favorable recommendation with the three conditions.

Staff noted the practical difficulty is based on two things: the location of the septic being in the direction they would need to move to not encroach further upon the buffer, and the fact that half of the house is already within the critical area buffer. The Planning Commission believed the proposal was consistent with the intent of the Unified Development Ordinance, in harmony with the general spirit and intent of the Critical Area law and Kent County regulations, and that the variance would not adversely affect wildlife.

Timeline: Staff recommended that if approved, the variance would expire after one year if no substantial construction in accordance with the plans is undertaken. Mr. Miller confirmed this timeline is workable, noting that they have already met with their team and plans are ready. The builder (Colin Campbell) is ready to proceed once permits are filed.

Motion: Mr. Hill moved to accept the request for a variance to construct a 580 square foot addition to an existing single family dwelling that is partially located in the Critical Area 100-foot buffer for Lawrence and Donna Miller located at 10129 Cove Road, Chestertown, Maryland, following the staff recommendations:

1. Approval of a buffer management plan to mitigate for the permanent disturbance in the buffer at a ratio of 3 to 1 and to mitigate for the increase of lot coverage outside of the buffer at a ratio of 1 to 1.
2. Installation of buffer plantings to be located between the improvements and the shoreline.
3. Requirements for the Kent County Health Department: the location of the well is to be shown on the site plan.
4. The variance will expire after one year if no substantial construction in accordance with the plans herein presented occurs.

The motion includes acceptance of the staff's findings and recommendations as stated in the staff report, including all findings required by the Critical Area Commission. Mr. Davis seconded. The motion passed unanimously.

25-52: Gregg and Jordyn Crossley - Appeal of Zoning Administrator's Decision

33979 Bradford Johnson Road, Galena - First Election District - Zoned AZD

Public Notice Information: Clerk Beth Grieb read into the record that the public notice was printed in the Kent County News on October 16, 2025. Letters were sent to the adjacent property owners on October 1, 2025. The property was posted on October 2, 2025. No correspondence was received.

Applicant Testimony: Jordyn Crossley (33979 Bradford Johnson Road, Galena, Maryland 21635) testified. Mrs. Crossley explained they had a hearing on September 15, 2025, to obtain approval for a large accessory building on their property. The building was approved with the contingency that the overhead doors had to face the rear side of the property towards the woods. They respectfully appeal to have the garage doors facing the roadside of the building.

Mrs. Crossley explained that the existing garage has doors on two sides. The way the proposed building is lined up, they cannot turn into the doors without shifting the building so far over that it is hard to get a regular vehicle to turn into the doors. The proposed building has a 75-foot setback from the property line at the ditch, providing 75 feet from the front of the building to the property line.

The driveway entrance off the County road will not change from the existing driveway. Mrs. Crossley stated that having the doors face the rear toward the woods creates a problem because they only have 30

feet behind the building to the woods line to make that turn, whereas they have 75 feet in the front of the building.

Building Size and Use: The proposed building is 3,900 square feet. The Crossleys explained they have a one-year-old, are growing their family, might buy a camper or boat, and want garage-kept vehicles without limiting themselves. They emphasized that larger doors are not uncommon on their road, as they live in farm country where many garages have large doors. They do not want to limit what they can put in their garage.

Existing Conditions: Mrs. Crossley explained there are trees lining the road on both sides of their property, so there is no direct line of sight to the garage from the road, whether approaching from the north or south. The trees are full-grown trees from the ditch line on the road. The existing driveway is blacktop that makes an L shape to the current garage being torn down.

Neighbor Support: Mrs. Crossley presented a petition with signatures from neighbors and frequent travelers of Bradford Johnson Road stating they have no objection to the garage or road-facing doors. She noted that signs had been in their yard for two straight months (for both the September 15th hearing and this hearing), and no neighbors or frequent passersby showed up or sent correspondence.

Rotation Issue: The Board asked about rotating the building 90 degrees. Mrs. Crossley explained this would not comply with the setback requirements outlined in the ordinance - they would be too close to either the road or the rear property line.

Safety: Mrs. Crossley noted that putting the garage doors toward the road-facing side is a safer option and should trump visual preference.

Staff Report: Mr. Rob Tracey, AICP, Associate Planner, testified this was an administrative special exception that occurred on September 15, 2025. Anything beyond 2,000 square feet requires an administrative special exception reviewed by the Planning Director. Special exceptions are approved uses but require additional review to ensure the character of the neighborhood will not change.

The building is 3,900 square feet. In reviewing the surrounding area on Bradford Johnson Road, Mr. Tracey noticed that many accessory structures in the surrounding area were in the rear yard behind the house. This proposed structure is in the side yard. The applicant is not proposing any additional landscaping, so the doors would be visible to someone driving by. This was the basis for the condition requiring doors to face the rear.

Ms. Carla Gerber, AICP, Deputy Director of Planning, provided additional information concerning the definition of accessory structures. Per the Unified Development Ordinance (page 360), an accessory structure is "a detached structure on the same parcel as the principal structure or use and which is customarily incidental and subordinate to the principal structure or use, for example a shed or detached garage." The concern raised in the administrative hearing was that because this garage is in the side yard, sits closer to the road than the house, and is larger in dimension than the house, there should be some

way to make it subordinate so that it still appears to be a residential property as opposed to having garage doors as the initial view.

Ms. Gerber noted there is a porch or lean-to shown on the rear of the building as proposed, though she believed the Crossleys intended this for outdoor storage. She also noted that in the original special exception approval, Mr. Mackey would have accepted a 90-degree turn to the building so that doors would have been facing out to the side, but the applicant submitted testimony that to turn the building 90 degrees they cannot meet the required setbacks of 75 feet from the road and 30 feet from the rear because the property is not very deep.

Landscaping Discussion: Ms. Gerber noted there had been some discussion in the staff report about having landscaping to soften the appearance of the building, but this was not made part of Mr. Mackey's decision.

Additional Information: Mrs. Crossley clarified the rear porch/lean-to will serve both as storage and for entertaining/grilling. The building is mostly for personal storage. The existing driveway is blacktop that ends at the garage being torn down. The Crossleys envision use for personal vehicles, and possibly a camper or boat in the future.

Board Discussion: The Board discussed whether rotating the building 90 degrees would meet setback requirements. Based on measurements, with a 105-foot depth from front to rear setback requirements, rotating 90 degrees would not fit or would be very tight. The Board noted that either way - with doors facing front or rear - there will be a 75-foot long by 16-foot tall wall visible.

Tree Covenant Discussion: The Board discussed that existing full-grown trees line both sides of the property from the ditch line, cutting the direct line of sight to the garage from both directions on the road. When asked if they would sign a covenant to keep the trees where they are, the Crossleys agreed they would, noting they do not plan on removing the trees.

Alternative Structures: Board members noted driving through the area and observing that there are many agricultural buildings in the neighborhood. One member noted counting 10 garages close to the road, with 3 (including the Crossleys') having side-facing doors and 7 having road-facing doors, though none were as large as this proposal. The Board noted that down the road toward Golts there is a huge green building with a huge industrial fence and blacktop area.

Special Exception Standards: Ms. Levan explained that the Board must make findings related to the special exception based on their own review, as this is essentially a new hearing on appeal of the administrative decision. If the Board denies the special exception, the applicants' next recourse would be to appeal to court. If the Board approves the special exception, processing of the building permit would continue.

Board members discussed the visual impact of having large roll-up doors facing the road versus having a blank wall facing the road with doors to the rear. Members expressed concern about the industrial

appearance of three large roll-up doors facing the road with blacktop in front, while also acknowledging this is farm country with many large agricultural structures nearby.

Motion: Mr. Hill moved to uphold the original decision that the garage doors face the rear of the property with the following conditions.

1. Applicant position the proposed pole building so that the 12 by 14 garage doors are facing the rear yard.
2. The applicant provides landscaping along the front of the property line.
3. The special exception hereby granted would lapse after 2 years if no substantial construction in accordance with the plans herein presented were to occur.

Mr. Davis seconded. The motion passed unanimously.

GENERAL DISCUSSION

Staff reported there will be items on the November 17, 2025, agenda, with the meeting starting at 5:00 PM. It is likely that one item on the agenda will have people appearing both in support and in opposition.

ADJOURN

Mr. Davis moved to adjourn the meeting. Mr. Hill seconded. The motion passed unanimously.

The meeting was adjourned at approximately 7:00 p.m.

/s/ John Massey
John Massey, Chair

/s/ Carla Gerber
Carla A. Gerber, AICP, Deputy Director

Please note 95% of this document was created by Claude from Anthropic using a transcript from MS Teams.