

IN THE MATTER OF	*	BEFORE THE CECIL COUNTY
THE APPLICATION OF	*	BOARD OF APPEALS
ROBERT GLENN ROWLAND	*	CASE NO.: 4122
	*	
(Variance – RR)	*	
	*	
* * * * *		

**OPINION**

The Cecil County Board of Zoning Appeals (the “Board”) is now asked to consider the application of Robert Glenn Rowland (“Applicant”), for a variance to the five-foot side building restriction setback requirement. The subject property located at 25 Virginia Avenue, Earleville, Maryland 21919, being designated as Parcel 90, Lots 131 and 132 on Tax Map 56, in the First Election District of Cecil County (“Property”), in an area presently zoned Rural Residential (RR). The Property is owned by the Applicant.

Under the provisions of Article XVII, Part I, Section 306, Paragraph 1, variances, as defined in Article II, may be granted by the Board of Appeals. Paragraph 2 of Section 306 requires the Board to examine all facts of the case and render a decision based upon the following criteria:

A. The variance requested is based upon a situation where, because of special circumstances, a literal enforcement of the provisions of the Ordinance would deprive the applicant of a right commonly enjoyed by other parties in the same zone under the terms of this Ordinance.

B. Special conditions and circumstances exist that are peculiar to the land, buildings, or structures involved, and that are not applicable to other lands, buildings, or

structures in the same zone, such conditions and circumstances not being the result of actions by the applicant.

C. The granting of the variance will not confer upon the applicant any special privileges that are denied by this Ordinance to other properties in the same zone.

D. The variance request does not arise from any condition to land or building use, either permitted or non-conforming, on any neighborhood property.

E. Variance requests in the Critical Area District shall not be granted unless the decision is based on the following additional criteria:

- 1) Special conditions or circumstances exist that are unique to the subject property or structure and a strict enforcement of the provisions within the Critical Area District would result in unwarranted hardship that is not generally shared by owners of property in similar management areas (i.e. IDA, LDA, RCA) of the Critical Area.
- 2) Strict enforcement of the provisions within the Critical Area District would deprive the property owner of rights commonly shared by other owners of property in similar management areas within the Critical Area District.
- 3) The granting of a variance will not confer upon any applicant any special privilege that would be denied to other owners of like property and/or structures within the Critical Area District.
- 4) The variance request is not based upon conditions or circumstances that are self-created or self-imposed, nor does the request arise from

conditions or circumstances either permitted or non-conforming that are related to adjacent parcels.

- 5) The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area District, and that the granting of the variance will be consistent with the spirit and intent of the County's Critical Area Program and associated ordinances as well as state law and regulations adopted under Subtitle 18 of the Natural Resources Article and COMAR 20.01.
- 6) Greater profitability or lack of knowledge of the restrictions shall not be considered as sufficient cause for a variance.

On January 24, 2022, Applicant appeared and testified in support of his application seeking a three (3) foot variance to the 5-foot side building restriction setback requirement on the eastern side of his Property to construct a shed with enough space for the septic system. The property is a Non-Conforming property in the Critical Area and Floodplain. The proposed shed is a prefabricated 12 x 14 foot structure. Applicant testified he has received approval from his next-door neighbor who would be most impacted by the construction. Donald Erb provided a written statement in support of the Application consistent with the Applicant's testimony.

No witnesses spoke in opposition of the Application.

From the evidence presented, the Board is satisfied that the criteria set forth in Section 306 has been met and makes the following findings of facts:

1. The variance request is based upon a situation where special conditions or circumstances exist that are unique to the subject property or structure and a strict

enforcement of the provisions within the Critical Area District would result in unwarranted hardship that is not generally shared by owners of property in similar management areas of the Critical Area. The small size of the parcel and the location of the existing septic system prevents placement of the proposed shed on another location on the Property.

2. Strict enforcement of the provisions within the Critical Area District would deprive the property owners of rights commonly shared by other owners of property in similar management areas within the Critical Area District. Strict enforcement of the Critical Area Buffer requirements would deprive the property owners the right to construct a shed for storage, which is a right similarly and commonly shared by neighboring properties and others in the Critical Area.

3. The granting of the variance will not confer upon the Applicant special privileges that are denied by this Ordinance to other properties within the Critical Area District. As noted in Item 2 above, neighboring properties contain sheds, and the use of a shed for storage is a reasonable use of a residential property, so there is no special right or privilege afforded the Property owners by virtue of the granting of the variance.

4. There is no evidence that the variance request arises from any condition to land or building use, either permitted or non-conforming, on any neighborhood property.

5. The Board finds that the granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area District, and that the granting of the variance will be consistent with the spirit and intent of the County's Critical Area Program and associated ordinances as well as state law and regulations adopted under Subtitle 18 of the Natural Resources Article and COMAR 20.01.

The shed is constructed off-site and will present no impact to the water, habitat or environment in general.

6. Based upon all of the evidence submitted, the proposed variance is the minimum variance that will make possible the reasonable use of the land. Additionally, the Board finds that the granting of the variance will be in harmony with the general purpose and intent of the Cecil County Zoning Ordinance and shall not result in a use not permitted in the zone in which the Property is located and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The closest neighbor has provided testimony in support of the Application and no other property owner will be impacted by the proposed use.

For the reasons stated, by unanimous vote, the Board is satisfied that the criteria set forth in Section 306 have been met, and the application is therefore **GRANTED**.

All applicants are hereby notified that they are required to obtain any and all necessary licenses and permits required for the use described herein.

2/28/2022  
Date

  
Mark Saunders, Chairperson

**BOARD OF APPEALS APPLICATION  
CECIL COUNTY, MARYLAND**

**RECEIVED**

MEET. MONTH: Jan. 2022  
FILE NO. 4122

**THIS REQUEST IS FOR:**

- SPECIAL EXCEPTION RENEWAL ( )
- SPECIAL EXCEPTION ( )
- VARIANCE (X)
- APPEAL ( )

DEC 06 2021

Cecil County LUDS  
Division of Planning & Zoning

DATE FILED: 12/6/21  
AMOUNT PD: \$200  
ACCEPTED BY: JB

**A. APPLICANT INFORMATION - ALL APPLICANTS MUST SIGN**

Robert Glenn Rowland

APPLICANT NAME - PLEASE PRINT CLEARLY

(mailing address) 3692 Pleasant Valley Rd. York PA 17406  
ADDRESS CITY STATE ZIP CODE

Robert Glenn Rowland  
APPLICANT SIGNATURE

717.880.0693  
PHONE NUMBER

**B. PROPERTY OWNER INFORMATION - ALL PROPERTY OWNERS MUST SIGN**

Robert Glenn Rowland

PROPERTY OWNER NAME - PLEASE PRINT CLEARLY

(property requesting variance) 25 Virginia Ave. Earleville, MD 21919  
ADDRESS CITY STATE ZIP CODE

Robert Glenn Rowland  
PROPERTY OWNER SIGNATURE

717.880.0693  
PHONE NUMBER

**C. PROPERTY INFORMATION**

25 Virginia Avenue Earleville, MD 21919  
PROPERTY ADDRESS

01 021591  
ELECTION DIST. ACCT. NUMBER

0056 0090 131, 132 .07 RR  
TAX MAP BLOCK PARCEL LOT # #ACRES ZONE

**D. PURPOSE OF APPLICATION - Indicate reasons why this application should be granted. (attach separate sheet if necessary)**

PLEASE SEE ATTACHED SHEET

3 foot Variance to the 5 foot side building restriction setback (Eastern property line) for construction purposes.

**E. On an attached sheet, PLEASE submit a sketch of the property indicating the proposed project. Show distances from the front, side and rear property lines and the dimensions of the project.**

**F. LAND USE DESIGNATION**

- Is property in the Critical Area?  YES  NO
- If yes, Pertinent provision of the Chesapeake Bay Critical Area Program:  YES  NO
- Is property in the 100 year Floodplain?  YES  NO
- Is property an Agricultural Preservation District?  YES  NO

If property is located in the Critical Area, all provisions and requirements must be met as outlined in Article XVII, Part I, II & III of the Zoning Ordinance.

**G. PROVISION OF ZONING ORDINANCE:**

Art. XVII P. I Section 306

**H. SPECIAL EXCEPTION RENEWAL - PREVIOUS FILE NO. & CONDITIONS FOR APPROVAL:**

**I. SPECIAL EXCEPTION FOR A MANUFACTURED HOME - Please fill out the following information:**

Will unit be visible from the road? \_\_\_\_\_ If yes, distance: \_\_\_\_\_

Will unit be visible from adjoining properties? \_\_\_\_\_ If yes, distance: \_\_\_\_\_

Distance to nearest manufactured home: \_\_\_\_\_ Size/Model/Year of Unit: \_\_\_\_\_

Number of units on property at present time: \_\_\_\_\_

We submitted a permit with all required paperwork to Cecil County Permits and Inspections on 10-15-2021. We were contacted by Cecil County Zoning and Planning (William Goldman) informing us of the 10 foot setback requirement. Upon discussion with his supervisor, Mr. Goldman stated that we could use 5 foot setbacks, but would need to seek a variance to place our shed any closer to our neighbor's property.

We request a variance to place the shed **three** feet from the property line between our property (25 Virginia Avenue) and the property of Donald Erb (29 Virginia Avenue). Mr Erb has given his permission to do so, and has sent an email to the Cecil County Zoning and Planning Department. You should have it in your possession. We are also including a copy. The shed would be **three** feet from Mr. Erb's property with the pad on which it is placed being **two** feet from his property.

We are requesting this variance in order to increase our usable backyard space. It should be noted that in this "nonconforming property" neighborhood, Mr. Erb's home is less than 5 feet from our property line.



PARK DR

MARYLAND AVE

Subject Property

VIRGINIA AVE

FILE 4122 - VARIANCE  
ROBERT G. ROWLAND  
MAP 56 PAR 90 LOTS 131, 132

