



Town of Easton Board of Zoning Appeals Decision Summary

Tuesday, April 16, 2024 at 9:00 a.m.
Town Hall Chamber 2
14 S. Harrison Street, Easton, Maryland

Archived video of the meeting is available at:
[Town of Easton Agendas and Minutes](https://www.eastonmd.gov/Agendas/Agendas%20and%20Minutes)
([eastonmd.gov](https://www.eastonmd.gov))

Attendance:

Board Members:

Peter Cotter, Chairman
Gary Molchan, Vice Chairman
Zakary A. Krebeck
Paul Weber, Alternate

Staff:

Miguel Salinas, Planning and Zoning Director
Joseph Mayer, Plan Reviewer
Sharon Van Emburgh *Esq.*, Town Attorney
William C. Chapman *Esq.*, Assistant Attorney
Samantha Smith, Administrative Specialist

Absent:

Staff:

Lynn B. Thomas, Town Planner - Long Range
Nicholas Johnson, Town Planner - Current

1. **Call to Order** — Chairman Cotter called the meeting to order at 9:00 a.m.
2. **Decision Summary Review** —

**Vice Chairman Molchan moved to approve the March 19, 2024 Decision Summary.
Chairman Cotter seconded the motion.**

<u>Vote</u>	<u>3 - 0</u>
FOR:	3 - Cotter, Molchan, Krebeck
AGAINST:	0
ABSTAIN:	0
ABSENT:	0

3. **Applications** —

3.1. **File No.:** V - 1130 / V 24 - 03

Applicant: Fink, Whitten & Associates, LLC

Location: 220 South Street, Easton, MD 21601
Tax Map 0104, Grid 0EA, Parcel 1902

Zoning: R-7A

Request: The Applicant is requesting a Variance from the following section of the Zoning Ordinance: Section 28-302.2.C.2, the minimum 25' rear setback for all uses and structures in the R-7A Zoning District, and from Section 28-302.2.C.3, the minimum 8' side setback for all uses and structures in the R-7A Zoning District. The applicant is seeking to subdivide the existing 21,622 square foot parcel into two (2) parcels: a 16,564 square foot parcel (Lot 1) and a 5,058 square foot parcel (Lot 2). There is an existing Accessory Dwelling Unit located along the southern property line (Lot 2) and would violate the side and rear setback requirements for the R-7A Zoning District. There is no record or any permits or approvals allowing this structure to operate as an Accessory Dwelling Unit.

Staff recommends a denial with the following findings:

1. That there are no peculiar conditions associated with the property that necessitate the need for a variance.
2. The conditions associated with the need for the variance are the result of action taken by the applicant.
3. A literal interpretation of the Zoning Ordinance will not result in a practical difficulty. The applicant's proposal to subdivide the property creates the necessity for an additional variance request that would not otherwise be required.

Staff Presentation:

Miguel Salinas, Director of Planning and Zoning
Joseph Mayer, Plan Reviewer

Applicant Presentation:

Elizabeth "Ebie" Fink
Pamla Into, Owner

Public Comment:

Michael Brophy, 216 South Street
Landy Cook, 113 S. Aurora Street

Public Comment Written:

Joyce DeLaurentis, 215 Talbot Street

Board Member Krebeck moved to approve the variance request as submitted by the applicant with the following conditions:

1. The applicant shall comply with all Subdivision Regulations and obtain all applicable Building permits.

2. **As determined by the findings of the Board including the applicant's submission and the Town's staff report, the recorded plat shall indicate that any subsequent expansion or encroachment into the setback is required to appear before the Board**

Vice Chairman Molchan seconded the motion.

Vote	3 - 0
FOR:	3 - Cotter, Molchan, Krebeck
AGAINST:	0
ABSTAIN:	0
ABSENT:	0

4. Administrative Appeal —

4.1. File No.: A - 1117 / A 24 - 01

Applicant: Aspire Outdoors, LLC

Location: Camac Street, Easton, MD 21601

Tax Map 0026, Grid 0020, Parcel 0186

Zoning: R-10A

Request: Aspire Outdoors, LLC (Applicant) has filed an appeal to the Town of Easton Board of Zoning Appeals (Board) pursuant to Section 28-1303.3.A of the Town of Easton code, alleging an error in the decision or determination by the Planning and Zoning Director, in a Written Decision dated January 3, 2024, that a revised set of plans submitted by the Applicant on November 8, 2023 did not represent a substantial change to the original proposal dated September 26, 2023.

Background: On October 24, 2023 the Board heard the Special Exception Application SE - 991 / SE 23 - 06 for a Multifamily Apartment Complex Use; and the Variance application V - 911 / V 23 - 05 for a variance from the minimum 75' rear yard setback for apartment buildings and parking areas adjacent to a single-family residence or vacant residential lot. At the conclusion of the Hearing, the Board voted (3-0) to approve the Variance request as submitted. The Board voted (3-0) to deny the Special Exception request as submitted.

Following the denial of the Special Exception, a revised set of plans was submitted by the Applicant on November 8, 2023. Section 28-1303.F of the Zoning Ordinance states that if any application or request is disapproved on the merits by the Board, the Board shall not accept the application for substantially the same proposal, on the same premises, until after one (1) year from the date of such disapproval. Staff compared the submission against the Board's findings for denial, and subsequently determined that the revised submission does not represent a substantial change.

Staff Representation:

Sharon Van Emburgh *Esq.*, Town Attorney
William C. Chapman *Esq.*, Assistant Town Attorney

Applicant Representation:

Derrick Daly, Aspire Outdoors LLC

- 4.2. Oath to Testify** — Chairman Cotter called for all witnesses to declare and affirm under penalty of perjury that he or she solemnly swear to testify truthfully before the Board.

4.3. Opening Statements —

4.3.1. Applicant Opening Statement — Mr. Derick Daly addressed the Board on behalf of Aspire Outdoors LLC with a brief introduction to the nature of the Appeal, and to why the submitted change was substantial to the original application. As exemplified by video documentation of the April 2023 meeting and the October 2023 Hearing, extensive discussion and a thorough debate related to the traffic pattern on Camac Street was addressed as a major recurring concern for the project. In consideration of these comments made under sworn testimony by members of the public and the Board, the November 2023 submission now proposes the elimination of one 3-story building for a total of 135 units (from 162 units); and all vehicular trips will now be routed directly through Gannon Range with the addition of a gate at the end of Camac Street to be used for emergency vehicle access only. The Applicant provided a letter dated October 18, 2023 from Zachary A. Smith *Esq.* on behalf of D.R. Horton, Inc. acknowledging an agreement for a single vehicular access between Gannon Range and Aspire.

4.3.2. Town of Easton's Opening Statement — Mrs. Sharon VanEmburgh, *Esq.* was present on behalf of the Town of Easton to defend the interpretation of the January 3, 2024 Decision by the Planning and Zoning Director that the revised application submitted by the Applicant on November 8, 2023 was substantially the same as the original proposal dated September 26, 2023. As per Section 28-1303.F of the Zoning Ordinance: "... the Board shall not accept any application for substantially the same proposal, on the same premises, until after one (1) year from the date of such disapproval." She also distinguished that this traffic solution was already contemplated by the Board; citing Page 22 of 23 of their Written Decision which states: "Even if Camac Street was not used and all traffic went through Gannon Range, the Board is concerned that four apartment buildings would be problematic to the traffic through Gannon Range, and the resulting project would not meet the connectivity requirements of the Comprehensive Plan." Mrs. VanEmburgh contested that Mr. Miguel Salinas, the Planning

and Zoning Director reviewed the revised submission, and compared this set of plans to the Special Exception findings of the Written Decision of the Board dated December 29, 2023 with particular respect to traffic, parking, character of the surrounding area, and interconnectivity. Mr. Salinas will provide testimony to support his rationale in his determination that the revised submission does not represent a substantial change.

4.4. Testimony —

4.4.1. Mrs. VanEmburch called Mr. Michael “Miguel” Salinas of 14 S. Harrison Street to testify. Mr. Salinas has worked in Planning and Zoning for local municipalities since 2003; serving as the Director for the Town of Easton since June of 2022, and previously serving as the Director of Planning and Zoning for Talbot County, Maryland. After reviewing the video recording of the October 24, 2023 Hearing and the Decision of the Board, Mr. Salinas compared these records to the revised submission; considering any substantial changes in the application that may sufficiently overcome the findings for denial for a Special Exception in the original Decision. Mr. Salinas noted four (4) findings in particular: *1) The proposed project would create undue traffic hazards and congestion on Camac Street; 2) The proposed project adversely affects the health, safety, and welfare of the surrounding residents and the established character of the area; 3) The proposed project provides inadequate parking; and 4) The proposed project eliminates interconnectivity.*

4.4.2. Cross Examination — Chairman Cotter opened up cross examination for Mr. Salinas’ testimony. Mr. Daly reviewed the components of finding 1) that the elimination of access off of Camac Street and the addition of an emergency vehicle access fence did sufficiently address the Board’s findings regarding undue traffic hazards and congestion on Camac Street and overflow parking on McCall Street. Mr. Daly questioned Mr. Salinas in regard to a discrepancy in his determination for finding 2) regarding the dwelling count and reduction of the overall gross density of the project from 2.63 dwelling units per acre to 2.184 dwelling units per acre. Mr. Daly highlighted finding 3) regarding inadequate parking for the record; and staff’s finding that the 201 spaces provided in the revised submission is a sufficient range of the required 135-270 offsite parking spaces. Mr. Daly addressed finding 4) that the proposed project eliminated interconnectivity, and asserted that the definition for traffic in the Land Use chapter of the Comprehensive Plan does not specify “vehicle traffic” under the objectives of the Comprehensive Plan.

4.5. Public Comment — Chairman Cotter opened for public comment.

4.5.1. Public Comment:

Dennis Freeman, 8687 Camac Street

4.5.2. Public Comment Written:

John Franczak, Hunters Mill Homeowners Association

4.6. Closing Testimony —

4.6.1. Applicant Closing Statement — Mr. Daly concluded by reiterating that multiple aspects of traffic were cited as a recurring concern for this project. With the proposed elimination of one 3-story building and with all traffic to be routed directly through Gannon Range, this solution does sufficiently address the four (4) findings of Mr. Salinas' Decision, and therefore can be determined to be a substantial change from the original proposal.

4.6.2. Town of Easton's Closing Statement — Mrs. VanEmburch stated that Mr. Salias had sufficient justification in that this application is substantially the same as the original; revisiting Page 22 of the Board's Written Decision in which the Board made the determination that directing traffic through Gannon Range was not an appropriate solution. Mrs. VanEmburch asked for the Board to determine that this proposal is not a substantial change to the original proposal.

4.6.2.1. Applicant Response to Defendant Closing Statement — Mr. Daly asked the Board to once again consider the changes presented in this proposal, for the opportunity for this proposal to be reviewed once again by staff at the Preliminary Review level, and to determine that this proposal is in fact a substantial change from the original.

4.7. Board Deliberation —

4.7.1. Administrative Appeal: *A - 1117 / A 24 - 01*

Chairman Cotter moved to deny the appeal, and to affirm the findings of the Written Decision by the Planning and Zoning Director dated January 3, 2024 that the revised set of plans submitted by the applicant on November 8, 2023 did not represent a substantial change to the original proposal dated September 26, 2023. Board Member Krebeck seconded the motion.

<u>Vote</u>	<u>2 - 1</u>
FOR:	2 - Cotter, Krebeck
AGAINST:	1 - Molchan

ABSTAIN: 0
ABSENT: 0

5. **Adjournment** — Chairman Cotter motioned to adjourn. Board Member Krebeck seconded. The meeting was adjourned at 11:23 a.m.