Town of Easton Board of Zoning Appeals
Final Decision Summary
Tuesday, December 17, 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 (eastonmd.gov)

Attendance:

Board Members:
Peter Cotter, Chairman
Gary Molchan, Vice Chairman
Zakary A. Krebeck AICP
Paul Weber, Alternate

Absent:

Staff:
Miguel Salinas, Planning and Zoning Director
Lynn B. Thomas AICP, Town Planner - Long Range

Staff:
Joseph Mayer, Plan Reviewer
Nicholas Johnson AICP, Town Planner - Current
Sharon Van Emburgh, *Esq*. Town Attorney
Aaron Cooper, *Esq*. Legal Associate
Samantha Smith, Administrative Specialist

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 November 19, 2024 Decision Summary. Board Member Krebeck seconded the motion.

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

3. **Applications** —

a. File No.: ***V - 1345 / V 24 - 14***
Applicant: **Neoma Salvaje**
Location: 61 Pleasant Alley, Easton, MD 21601
Tax Map 0104, Grid 00EA, Parcel 1424, Lot 2
Zoning: R-7A
Request: The applicant is requesting a Variance from Section *28 - 302.2.C.3* of the Town of Easton Zoning Ordinance: the minimum 8' side setback for all uses and structures in the R-7A Residential zoning district and the Planned Redevelopment Overlay district. The applicant is seeking an after-the-fact variance to construct what is best described as a canopy between the primary structure and the side property line. This structure protrudes beyond the minimum five (5) foot side setbacks as established through the Planned Redevelopment District (PRD) process.

Background: On March 5, 2024, the Building Inspection Division provided notice to the Applicant of unpermitted alterations to the existing fence, and the construction of a structure referred to as an arbor on the property located at 61 Pleasant Alley. The Applicant subsequently submitted building permit applications *#2024-19077* and *#2024-17078*. On March 12, 2024 the Planning and Zoning Department provided the following written comments on permit application *#2024-17078* for the construction of what was described as an arbor and a shed:

1. *The proposed structures encroach beyond the established five (5) foot side setbacks as shown on the recorded subdivision plat dated January 7, 2016. At this time, the following options are available to remedy the setback issue.*
    a. *Apply for an obtain a setback Variance from the Board of Zoning Appeals*
    b. *Apply for an amendment to the original Planned Redevelopment District approval that established the five (5) foot setbacks.*
    c. *Submit a revised site plan that conforms to the established setback requirements for this property.*
2. *The proposed structures are located within the established utilities easements. Please reach out to Easton Utilities regarding what is permitted within these easements.*

On April 26, 2024, Code Enforcement issued violation notice *#24-0772* stating that the Applicant was in violation of Section *28 - 112* of the Zoning Ordinance, and requested that the structures be removed. On May 2, 2024, the Applicant requested an official written determination for the purpose of an appeal which was provided to the Applicant on May 28, 2024. No appeal was filed within 30 days of the date of the official determination. On June 29, 2024, a final notice was issued to the Applicant by the Town's Code Enforcement Department. Further enforcement was taken in the issuance of three (3) citations (Case *#24-1252*) and the scheduling of a hearing with the District Court for Talbot County after the

Applicant failed to take corrective action.

Outstanding Issues: The canopy constructed on the southern section of the primary structure is not included as part of this Variance request, but is still in violation of the setback requirements. The roofing material on the wooden frame protrudes beyond the minimum required setback; running from the side of the primary structure to the fence located on the southern property line. Both structures extend into active utility easements containing electric and water infrastructure. Easton Utilities has indicated that they will not permit any permanent structures to be located within these easements.

Staff Presentation:
Nicholas Johnson AICP, Planner
Sharon Van Emburgh, Esq. Town Attorney
Tom Diem, Building Code Official

Applicant Presentation:
Neoma Salvaje

Public Comment:
Tykeshia Jenkins, 201 Port Street

Public Comment Written — None

Board Member Krebeck moved to deny the Variance request as submitted. Chairman Cotter seconded the motion.

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

b. File No.: ***V - 1332 / V 24 - 12***
Applicant: **Easton Utilities**
Location: 23 Talbot Lane, Easton, MD 21601
Tax Map 0104, Grid 00EA, Parcel 1536
Zoning: CB
Request: The applicant is requesting a Variance from Section *28-1006.D.1* of the Town of Easton Zoning Ordinance: the maximum four (4) foot height for all fences, walls and hedges above the elevation of the surface of the ground located in any front yard area. The Applicant is seeking to construct an eight (8) foot tall wooden fence to secure a newly constructed gas regulator station. Through the approval of the requested Variance, the Applicant shall also be in compliance with the applicable requirements of the Code of Federal Regulations (CFR).

Background: The proposed fencing was presented to the Historic District Commission at their September 9, 2024 meeting and received positive feedback. This project was administratively approved by the Town Engineer as per Section *28-601.E.2.c* of the Town Ordinance.

Staff Presentation:
Nicholas Johnson AICP, Planner
Miguel Salinas, Director of Planning and Zoning

Applicant Presentation:
Paul Moffett, Easton Utilities

Public Comment — None
Public Comment Written — None

Chairman Cotter moved to approve the Variance request as submitted. Vice Chairman Molchan seconded the motion.

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

c. File No.: ***V - 1339 / V 24 - 13***
Applicant: **Interstate Sign Company**
Location: 410 N. Washington Street, Easton, MD 21601
Tax Map 0101, Grid 0014, Parcel 0281
Zoning: CB
Request: The applicant is requesting a Variance Section *28-1101.7.B.1* of the Town of Easton Zoning Ordinance: the maximum height requirement for freestanding signs; and from Section *28-1007.B.2*, the minimum landscape area requirements for freestanding signs.

Background: On April 24, 2024 Code Enforcement issued case *#24-760* in violation of Section *28-1001.3.A* after it was discovered that a new freestanding sign had been erected in the location of the previous non-conforming sign. Subsequent notices were sent on May 15, 2024 and May 31, 2024 with instructions to submit an application for a signage permit which was ultimately submitted on July 1, 2024. On July 2, 2024 the Planning and Zoning Department provided comments; noting that the sign exceeds the maximum height requirement for freestanding signs as per Section *28-101.7.B.1*, and does not meet the minimum landscaping requirements as per Section *28-1007.B.2* of the Zoning Ordinance. Additional Code Enforcement violation notices were sent to the property owner on August 20, 2024 and September 18, 2024.

Outstanding Issues: The internal illumination of this sign is currently prohibited by the Zoning Ordinance.

Staff Presentation:
Nicholas Johnson AICP, Planner
Sharon Van Emburgh, *Esq*. Town Attorney

Applicant Presentation:
Michelle Hobbs, Interstate Sign Company
Tyler Shelton, Interstate Sign Company

Public Comment:
Muhammad Ullah, 7-Eleven Franchise Owner

Public Comment Written — None

The Applicant consented to meet all minimum landscaping requirements of Section *28-1101.7.B.2* of the Town of Easton Zoning Ordinance.

Chairman Cotter moved to approve the Variance request for the maximum height requirement with the understanding that the minimum landscaping requirements will be met. Vice Chairman Molchan seconded the motion.

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

d. File No.: ***SE - 1346 / SE 24 - 09***
Applicant: **BGFY, LLC**
Location: 8223 Elliott Road, Easton, MD 21601
Tax Map 0109, Grid 0000, Parcel 4582, Lot 3
Zoning: CG with a PUD Overlay
Request: The applicant is requesting a Special Exception pursuant to Section 28-201 of the Zoning Code (*Table 2.1 (6) (603.1)*) to be utilized as a Cannabis Dispensary* in a Planned Unit Development (PUD) with an underlying zoning district of Commercial General (CG) zoning. The Applicant is proposing to operate a cannabis dispensary within the existing 2,700 square foot vacant building located on the subject property.

Background: On April 15, 2024, The Town of Easton Zoning Ordinance was amended through the passing of *Ordinance 809*. The Ordinance established regulations for cannabis dispensaries and other related uses by Special Exception

within the Central Business (CB) and Commercial General (CG) zoning district subject to supplemental standards (Section *28-1007.2.A.18*).

Outstanding Issues: There is an existing house of worship located at 29512 Canvasback Drive. Per supplemental standard *b.* in Section *28-1007.2.A.18* of the Zoning Ordinance, no cannabis dispensary shall be permitted within five hundred feet (500') (measured from the closest portion of the affected properties) of any of the following uses: Pre-existing Schools, Colleges & Universities, Pre-existing Houses of Worship, Pre-existing Family Day Care, Day Care Group, Day Care Small Group, Pre-existing Public Park, playground, recreation center or library, one-half mile of another cannabis dispensary, or one hundred feet (100') of any property zoned for residential use.

Staff recommends the following conditions:

1. Prior to the issuance of an occupancy permit, the Applicant shall provide the Town with an up-to-date local contact person (based in Talbot County) who shall be available and authorized to respond to complaints concerning any operational issues associated with the dispensary.

2. Prior to the issuance of an occupancy permit, the Applicant shall provide certification by a Professional Engineer, Certified Industrial Hygienist, or other equivalently qualified professional that proposed odor control measures will effectively eliminate outdoor odors for all odor sources.

3. The cannabis dispensary shall not be open to the public prior to 9:00 a.m. or after 9:00 p.m. Operations not involving the public such as stocking of shelves, completion of booking, etc., may occur outside this window.

4. A subdivision plat shall be recorded prior to the issuance of a building permit. The newly created lot upon which the cannabis dispensary will operate must meet the minimum separation requirements for cannabis dispensaries found in Section *28-1007.2.A.18* of the Town Code.

5. Any subsequent change in ownership, tenancy, or operation will require a new application and approval for the continuation of the Special Exception use.

6. The Applicant shall obtain a certificate of occupancy within two (2) years after the date the special exception is granted. Failure to obtain a certificate of occupancy by December 17, 2026 shall void this approval.

Staff Presentation:
Nicholas Johnson AICP, Planner
Sharon Van Emburgh, *Esq*. Town Attorney

Applicant Presentation:
Zachary A. Smith *Esq.*

i. 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.

ii. Opening Statement —

1. Applicant Opening Statement — Mr. Zachary A. Smith, *Esq*. addressed the board on behalf of BGFY, LLC with a brief introduction to the nature of the Special Exception request; highlighting the prior record of commercial uses of the subject property, and other potential land uses that are permitted by right within the CG zoning district. Mr. Smith addressed the Applicant's intent to subdivide the property in order to meet the separation requirements for cannabis dispensaries as per Section *28-1007.2.A.18* of the Town Code, and the utilization of parking within the shopping center. The Applicant has obtained a conditional license from the State of Maryland Cannabis Administration to operate a standard cannabis dispensary within Talbot County.

iii. Testimony —

1. Mr. Smith called Mr. Mackie Barch, co-founder of Culta, and the Maryland Wholesale Medical Cannabis Trades Association (CANMD) to testify as an expert cannabis consultant. There were no objections.

Mr. Barch described the retail operation requirements and regulations for all cannabis dispensaries in the State of Maryland; highlighting compliance requirements for location, security, regular inspections, and third party moderator auditing. The proposed use is intended for commercial purposes however, odor control technology will be installed as required by the Town of Easton Zoning Ordinance. Mr. Smith addressed each of the Special Exception findings for the proposed use; further detailing that all operational and parking requirements for this application have been met as per the supplemental standards of the Town of Easton Zoning Code and the State of Maryland. A traffic impact analysis was conducted in November 2024 by Lenhart Traffic Consulting Inc. The study found that the proposed redevelopment will not

significantly increase traffic volume within the study area.

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

1. **Public Comment:**
   Anthony P. Kupersmith, *Esq.* on behalf of Greenstar Management LLC and Driller Ventures LLC

2. **Public Comment Written —** None

v. Closing Testimony —

1. **Applicant Closing Statement —** Mr. Smith responded to a concern raised from the public regarding the subject property's proximity to a house of worship and an existing music school. The Board deliberated on the definition of a School and its interpretation as a commercial use or as an institutional use. Staff clarified the definition of a school in the Zoning Ordinance as a facility which provides a curriculum of elementary or secondary academic instruction, and the Board interpreted this definition to exclude private tutoring from the School use category. Mr. Smith addressed other concerns raised from the public regarding the subdivision of the property, and reiterated that all operational requirements for this application have been met; asking the Board to consider reasonable conditions to the approval which will ensure compliance for the Special Exception.

vi. Board Deliberation for Special Exception *SE - 1346 / SE 24 - 09*

Chairman Cotter moved to approve the Special Exception request subject to the following conditions:

1. **Prior to the issuance of an occupancy permit, the Applicant shall provide the Town with an up-to-date local contact person (based in Talbot County) who shall be available and authorized to respond to complaints concerning any operational issues associated with the dispensary.**

2. **Prior to the issuance of an occupancy permit, the Applicant shall provide certification by a Professional Engineer, Certified Industrial Hygienist, or other equivalently qualified professional that the proposed odor control measures will effectively eliminate outdoor odors for all odor sources.**

3. **The cannabis dispensary shall not be open to the public prior to 9:00 a.m. or after 9:00 p.m. Operations not involving the public, such as stocking of shelves, completion of booking, etc., may occur outside this window.**

4. **Prior to the issuance of a building permit, a subdivision plat shall be recorded. The newly created lot upon which the cannabis dispensary will operate must meet the minimum separation requirements for cannabis dispensaries found in Section 28-1007.2.A.18 of the Town of Easton Zoning Code. Such lot shall contain a minimum of nineteen (19) off-street parking spaces.**

5. **Any subsequent change in ownership, tenancy, or operation shall require a new application and approval for the continuation of the Special Exception use.**

6. **The Applicant shall obtain a Certificate of Occupancy within two (2) years from the date the Special Exception is granted. Failure to obtain a Certificate of Occupancy by December 17, 2026 shall void this approval.**

Board Member Krebeck seconded the motion.

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

e. File No.: ***SE - 739 / SE 22 - 12***
Applicant: **Stanley Dean**
Location: 46 Wayman Avenue, Easton, MD 21601
Tax Map 0034, Grid 0009, Parcel 0169
Zoning: MXW
Request: **The Special Exception request for Short-term Housing within the MWX - Mixed Use Waterfront zoning district has been withdrawn from the December 17, 2024 Board of Zoning Appeals agenda.**

4. **Discussion Item —** None

5. **Adjournment —** Chairman Cotter motioned to adjourn. Vice Chairman Molchan seconded. The meeting was adjourned at 11:04 a.m.