

ST. MARY'S COUNTY BOARD OF APPEALS

In the Matter of Matthew Taylor and Amanda Heatwole
48206 Waterview Drive, St. Inigoes, Maryland

Case No. VAAP #16-0687

DECISION AND ORDER**Introduction**

Matthew Taylor and Amanda Heatwole (hereinafter "Applicants"), filed an application for a variance from the regulations of the St. Mary's County Comprehensive Zoning Ordinance (hereinafter the "Ordinance") regarding property located at 48206 Waterview Drive, St. Inigoes, Maryland (hereinafter the "Property"). The application seeks a variance from Section 71.5 of the Comprehensive Zoning Ordinance to construct a deck within the expanded buffer from nontidal wetlands.

After due notice, a public hearing was conducted at 6:30 p.m. on July 14, 2016 and continued on August 11, 2016, at the St. Mary's County Governmental Center at 41770 Baldrige Street, Leonardtown, Maryland. All persons desiring to be heard were heard after being duly sworn, documentary evidence was received, and the proceedings were recorded electronically.

Legal Standard

The Board shall not vary the regulations of the Ordinance unless it finds, based on the evidence, that:

1. Because of particular physical surroundings such as exceptional narrowness, shallowness size, shape or topographical conditions of the property involved, strict enforcement of the Ordinance will result in practical difficulty.
2. The conditions creating the difficulty are not applicable, generally, to other properties within the same zoning classification.
3. The purpose of the variance is not based exclusively upon reasons of convenience, profit or caprice; provided, any development necessarily increases property value, and that alone shall not constitute a finding of an exclusive reason.
4. The alleged difficulty has not been created by the property owner or the owner's predecessors in title.
5. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood and the character of the district will not be changed by the variance.

6. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.
7. The variance complies, as nearly as possible, with the spirit, intent, and purpose of the Comprehensive Plan.

Findings of Fact

The Property contains a one and one-half-story single-family dwelling with a basement and an attached porch. The Applicants plan to build a 512 square-foot, attached deck across the backside of the house. The deck will enable the Applicants to use a door on the rear of the house for ingress and egress.

The Property is constrained by nontidal wetlands, steep slopes, and highly erodible soils – Croom gravelly sandy loam (CrD2). According to the USDA Soil Conservation Service, CrD2 soils erode moderately. This strongly sloping to steep soil is found on uplands. The hazard of further erosion is severe. An intermittent stream traverses the properties north of the Applicants' Property. A 100-foot buffer must be maintained from the edge of the stream bank and must be expanded to include steep slopes, highly erodible soils, and hydric soils for streams inside the Critical Area. The expanded buffer does not extend to properties outside the Critical area.

A building and renovation permit was issued August 22, 2013 to renovate an existing house in order to complete it and to build a front porch. A Certificate of Occupancy was issued March 21, 2014. The Applicants purchased the Property on April 9, 2014.

The St. Mary's County Soil Conservation District granted an Erosion and Sediment Control Plan Exemption on July 19, 2016. However, the Applicants must install sediment control devices as needed.

Conclusions of Law

The Property is constrained by an expanded buffer. There will be no effect on the neighborhood. The Property is in a rural preservation area that has already been developed for residential use. Chapter 3, "A Growth Management Strategy," of the Comprehensive Plan establishes a vision for community design, which includes encouraging owners of existing structures to maintain and retrofit the buildings and grounds so they become attractive and energy efficient.

ORDER

NOW, THEREFORE, BE IT ORDERED, that, having made a finding that the standards for a variance and the objectives of Section 24.3 of the St. Mary's County

Comprehensive Zoning Ordinance have been met, a variance from the requirements of Section 71.5 of the Comprehensive Zoning Ordinance to construct a deck within the expanded buffer from nontidal wetlands is **granted** upon the following conditions:

1. spacing is provided between the deck boards to allow water to pass through freely; and
2. compliance with the recommendations of the St. Mary's County Soil Conservation District to install filter fabric and stone under the deck.

Date: September 8, 2016



George A. Hayden, Chairman

Those voting to grant the variance:

Mr. Hayden, Mr. Brown, Mr. Greene, Mr. Payne and Mr. Miedzinski

Those voting to deny the variance:

Approved as to form and legal sufficiency:



George R. Sparling, County Attorney