

ST. MARY'S COUNTY BOARD OF APPEALS

In the Matter of Peter and Paulina A. Ropshaw
16166 Drury Road, Ridge, Maryland

Case No. VAAP #12-0502

DECISION AND ORDER

Introduction

Peter and Paulina A. Ropshaw (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 16166 Drury Road, Ridge, Maryland (hereinafter the "Property"). The application seeks a variance from Section 71.8.3 of the Comprehensive Zoning Ordinance to disturb the Critical Area Buffer to construct a replacement single-family dwelling.

After due notice, a public hearing was conducted at 6:30 p.m. on September 13, 2018 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:

- a. Special conditions or circumstances exist that are peculiar to the land or structure involved and that strict enforcement of the Critical Area provisions of this Ordinance would result in unwarranted hardship.
- b. Strict interpretation of the Critical Area provisions of this Ordinance will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of St. Mary's County.
- c. The granting of a variance will not confer upon an applicant any special privilege that would be denied by the Critical Area provisions of this Ordinance to other lands or structures within the Critical Area of St. Mary's County.
- d. The variance request is not based upon conditions or circumstances that are the result of actions by the applicant.
- e. The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area, and that the granting of a variance will be in harmony with the general spirit and intent of the Critical Area program.

- f. The variance is the minimum necessary to achieve a reasonable use of the land or structures.

Findings of Fact

The subject property (the "Property") is a grandfathered lot in the Critical Area of St. Mary's County because it was recorded in the Land Records of St. Mary's County prior to the adoption of the Maryland Critical Area Program on December 1, 1985. The existing single-family dwelling was built in 1930 according to Real Property Data, Maryland Department of Assessments and Taxation. The Applicants plan to remove the existing house and build a new one in the same location, but with an expanded footprint.

A private well and an existing public sewer line serve the Property.

The Property fronts St. Jerome Creek and is constrained by the Critical Area Buffer (the "Buffer"), which has been measured 100 feet landward from the mean high water line of St. Jerome Creek, pursuant to *COMAR 27.01.09.01.E(3)*, and then expanded to include the hydric soils in accordance with *COMAR 27.01.09.01.E(7)*.

The existing soil types on the Property are Mattapex silt loam (MuB2) and Elkton (Ek) soils according to the Natural Resources Conservation Service, U.S. Department of Agriculture, Web Soil Survey. Only the Ek soils are hydric and are considered poorly drained, nearly level, deep soils. This soil type is found in areas bordering major rivers and in a few small areas on higher upland flats.

Steep slopes can be found along part of the Property's shoreline.

A portion of the Property, particularly along its shoreline, is within Special Flood Hazard Area Zone AE5 according to the 2014 Flood Insurance Rate Maps (FIRM), panel 401F. Zone AE is defined in the County's floodplain management regulations as Special flood hazard areas subject to inundation by the 1-percent annual chance (100-year) flood; base flood elevations are determined; floodways may or may not be determined. In areas subject to tidal flooding, the Limit of Moderate Wave Action (LiMWA) is delineated to define the landward limit of the Coastal A Zone.

Development is proposed outside Zone AE.

Approximately 5,417 square feet of woodland and other vegetation cover the Property. The Applicants do not plan to clear any vegetation or woodland.