

ST. MARY'S COUNTY BOARD OF APPEALS

In the Matter of John and Barbara Hamill,
16670 St. Jeromes Neck Road, Dameron, Maryland

Case No. VAAP #14-0219

DECISION AND ORDER**Introduction**

John and Barbara Hamill (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 16670 St. Jeromes Neck Road, Dameron, 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 July 10, 2014, 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 Property is a grandfathered lot in the Critical Area of St. Mary's County since the property was a lot of record prior to the adoption of the Maryland Critical Area regulations in December 1985. The Property is entirely constrained by the Critical Area Buffer (the "Buffer") measured from the mean high water line of St. Jerome Creek and from tidal wetlands present on the northern portion of the Property. The Buffer has been expanded further to encompass the hydric soils present on the Property.

The Property contains a single-family dwelling with an attached deck, shed, playhouse, driveway, stoop and wooden pier with wooden walkway/pad totaling 2,146 square feet of existing lot coverage. (The 116 square-foot deck is not included in the lot coverage calculations.) The existing single-family dwelling was constructed in 1918 and a private well and septic system serve the Property.