

ST. MARY'S COUNTY BOARD OF APPEALS

In the Matter of Jason and Christine Fisher,
45075 Millstone Lane, Hollywood, Maryland

Case No. VAAP #14-0673

DECISION AND ORDER**Introduction**

Jason and Christine Fisher (hereinafter "Applicant(s)"), 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 45075 Millstone Lane, Hollywood, 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 additions to an existing 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 because the property was recorded 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 Cuckold Creek. The Buffer has been expanded further to encompass the highly erodible soils present on the Property.

The Property contains a single-family dwelling with attached decks, a garage, wooden walkway and pier. A private well and septic system serve the Property.

The Applicants propose renovations in three separate areas of the home. The first two renovations are 300 and 200 square feet in size respectively and are to take place over the existing deck in order to create small additions