

The Board accepts the calculation of the extension of lot lines relied upon and verified by the Department of Land Use and Growth Management. Herbert N. Redmond, Jr., a registered surveyor with unquestionable qualifications, testified in opposition to the application. Mr. Redmond's testimony concerned different calculations of the mean high water mark, and his opinion that the mean high water mark is located further inland than as shown on the Applicants' site plan. However, the result of such a recalculation would be approval of an inland extension of the pier. There was no testimony how, if at all, a variation in the location of the mean high water mark would alter the calculation of the lot line extensions.

The Board finds that the Applicants have proven by a preponderance of the evidence that the variance will not be detrimental to the public, and that the proposed pier is consistent with other properties and improvements in the neighborhood.

Section 5.9 of the St. Mary's County Comprehensive Plan, pertaining to shoreline protection, access and development, recognizes private and public access to water.

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 to extend the proposed pier into the required 25-foot setback 5 feet on the north side and 15 feet on the south side of the pier is **granted**.

Date: March 12, 2015


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

ST. MARY'S COUNTY BOARD OF APPEALS

In the Matter of Richard M. Masica and
Leigh E. Wierichs, 45261 Daniels Road,
Hollywood, Maryland 20636

Case No. VAAP # 14-1771

DECISION AND ORDER**Introduction**

Richard M. Masica and Leigh E. Wierichs (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 45261 Daniels Road, Hollywood, Maryland (hereinafter the "Property"). The application seeks variances from Section 71.9.6.h (1) of the Comprehensive Zoning Ordinance to construct a pier within 25 feet of the extended property lines on the north and south sides of the pier.

After due notice, a public hearing was conducted at 6:30 p.m. on January 8 and February 12, 2015, at the St. Mary's County Governmental Center at 41770 Baldrige Street in Leonardtown, Maryland. All persons desiring to be heard were heard after being duly sworn and documentary evidence was received. 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.