

**ST. MARY'S COUNTY BOARD OF APPEALS**

Kenneth S. and Kathleen A. Burch  
43628 Abell Farm Way, Valley Lee, MD

Case No. VAAP #15-0790

**DECISION AND ORDER****Introduction**

Kenneth S. and Kathleen A. Burch (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 43628 Abell Farm Way, Valley Lee, 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 and appurtenances.

After due notice, a public hearing was conducted at 6:30 p.m. on September 8, 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:

- 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.