

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

In the Matter of Edward and Sharon Perraut  
21660 Potomac View Drive, Leonardtown, Maryland

Case No. VAAP #16-1573

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

Edward and Sharon Perraut (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 21660 Potomac View Drive, Leonardtown, 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 an addition to an existing single-family dwelling.

After due notice, a public hearing was conducted at 6:30 p.m. on July 13, 2017, 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 it was recorded prior to the adoption of the Maryland Critical Area Program on December 1, 1985 as part of the Society Hill Subdivision. The Property fronts Breton Bay and is constrained by the Critical Area Buffer, which has been measured 100 feet landward from the mean high water line of Breton Bay. The Property contains a single-family dwelling with an attached garage, covered porch and decks, an in-ground swimming pool, a driveway, walkways, and a concrete pad for a total of 9,329 square feet of lot coverage.

The Applicants plan to remove 692 square feet of this amount and add 863 square feet of new lot coverage for a net increase of 171 square feet of lot coverage in the Buffer. The amount of lot coverage on the Property following construction will be 9,500 square feet. The allowed amount of lot coverage on a property of this size is 18,950 square feet, 15 percent of the Property.

Approximately 66,653 square feet, or about one and one-half acres, of woodland and other vegetation covers the Property. The Applicants do not plan to clear any vegetation for their improvements.

The existing soil types on the Property are Mattapex fine sandy loam (MtB2) and Mattapex silt loam (MuC2) according to the Natural Resources Conservation Service, U.S. Department of Agriculture, Web Soil Survey. The MtB2 soils are typically found at lower elevations on 2 to 5 percent slopes and are considered moderately eroded. The hazard of further erosion is moderate. The MuC2 soils are mainly in areas along the tributaries of the major streams of the County on 5 to 10 percent slopes and are considered moderately eroded. The hazard of further erosion is severe unless adequate conservation measures are used.

The shoreline of the Property is within Special Flood Hazard Area Zone VE 18, Zone AE with Limited Moderate Wave Action (LiMWA), and Zone X (unshaded) according to Flood Insurance Rate Map (FIRM) panel 168F. Existing and proposed development is outside all flood zones.

The St. Mary's County Health Department approved the site plan on December 7, 2016. The proposed development is exempt from an engineered erosion and sediment control plan because the amount of soil disturbance will be less than 5,000 square feet and also exempt from storm water management.

The Maryland Critical Area Commission provided comments and does not oppose the variance.

### Conclusions of Law

The Property is constrained by the Critical Area Buffer (the "Buffer"). A strict interpretation of the Ordinance would prohibit any development in the Critical Area Buffer.

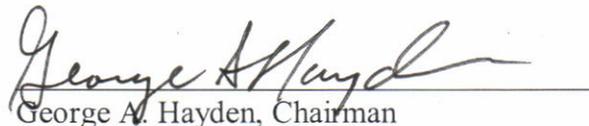
The basis for the variance is the subsequent adoption of the St. Mary's County Critical Area Program on March 27, 1990.

The Maryland Critical Area Commission has determined that potential adverse impacts resulting from development on these properties can be mitigated by planting trees and shrubs. Mitigation is required at a ratio of three to one per square foot of the variance granted. Mitigation is also required for the removal of any trees with a diameter greater than two inches. The required vegetation will improve plant diversity and habitat value for the site and will improve the runoff characteristics for the Property, which will contribute to improved infiltration and reduction of non-point source pollution leaving the site in the future.

### ORDER

**NOW, THEREFORE, BE IT ORDERED**, that, having made a finding that the standards for a variance and the objectives of Sections 24.4 and 71.8.3 of the St. Mary's County Comprehensive Zoning Ordinance have been met, and further finding, for all reasons stated herein, that the Applicants have rebutted the presumption that the specific development activity proposed by the Applicants does not conform with the general purpose and intent of Subtitle 18 of Title 8 of the *Natural Resources Article* of the *Annotated Code of Maryland* and regulations adopted pursuant thereto and the requirements of St. Mary's County Comprehensive Zoning Ordinance enacted pursuant thereto, a variance to disturb the Critical Area Buffer to construct an addition to an existing single-family dwelling is **granted**.

Date: August 10, 2017

  
George A. Hayden, Chairman

Those voting to grant the variance:

Mr. Hayden, Mr. Brown, Mr. Greene, Mr. Miedzinski and Mr. Payne

Those voting to deny the variance:

Approved as to form and legal sufficiency

  
George R. Sparling, County Attorney