

ST. MARY'S COUNTY BOARD OF APPEALS

In the Matter of St. Mary's County Metropolitan Commission
Great Mills Waste Water Pump Station, Great Mills, Maryland Case No. VAAP #17-1266

DECISION AND ORDER**Introduction**

St. Mary's County Metropolitan Commission (hereinafter "Applicant"), 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 regarding property located on tax map 50, grid 18, parcel 177 in Great Mills, Maryland, Great Mills, Maryland (hereinafter the "Property"). The application seeks a variance from Section 76.5.3.a of the Comprehensive Zoning Ordinance to construct a waste water pump station in a floodway.

After due notice, a public hearing was conducted at 6:30 p.m. on July 26, 2018, 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

1. In considering variance applications, the Board of Appeals shall consider and make findings of fact on all evaluations, all relevant factors, requirements specified in other sections of these regulations, and the following factors:
 - (A) The danger that materials may be swept onto other lands to the injury of others.
 - (B) The danger to life and property due to flooding or erosion damage.
 - (C) The susceptibility of the proposed development and its contents (if applicable) to flood damage and the effect of such damage on the individual owner.
 - (D) The importance of the services to the community provided by the proposed development.
 - (E) The available [availability] of alternative locations for the proposed use which are not subject to, or are subject to less, flooding or erosion damage.
 - (F) The necessary to the facility of a waterfront location, where applicable, or if the facility is a functionally dependent use.

- (G) The compatibility of the proposed use with existing and anticipated development.
- (H) The relationship of the proposed use to the comprehensive plan and hazard mitigation plan for that area.
- (I) The safety of access to the property in times of flood for passenger vehicles and emergency vehicles.
- (J) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effect of wave action, if applicable, expected at the site.
- (K) The costs of providing government services during and after flood conditions, including and repair of public utilities and facilities such as sewer, gas, electric, and water systems, and streets and bridges.
- (L) The comments provided by MDE (NFIP State Coordinator).

2. Limitations for Granting Variances.

The Board of Appeals shall make an affirmative decision on a variance request only upon:

- (A) A showing of good and sufficient cause. Good and sufficient cause deals solely with the physical characteristics of the property and cannot be based on the character of the improvement, the personal characteristics of the owner/inhabitants, or local provision that regulate standards other than health and public safety.
- (B) A determination that failure to grant the *variance* would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.
- (C) A determination that the granting of a *variance* for *development* within any designated *floodway*, or flood hazard area with *base flood elevations* but no designated *floodway*, will not result in increased flood heights beyond that which is allowed in these regulations.
- (D) A determination that the granting of a *variance* will not result in additional threats to public safety; extraordinary public expense, nuisances, fraud or victimization of the public, or conflict with existing local laws.