

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

In the Matter of Mary Anne Blankenship  
44560 Forest Landing Rd, Hollywood, Maryland

Case No. VAAP #18-0085

**DECISION AND ORDER**

**Introduction**

Mary Anne Blankenship (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 44560 Forest Landing Rd, 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 add a 694 square-foot deck to the existing single-family dwelling.

After due notice, a public hearing was conducted at 6:30 p.m. on April 12, 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**

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 subject property (the “Property”) is a grandfathered lot in the Critical Area of St. Mary’s County because it was recorded in the Land Records of St. Mary’s County prior to the adoption of the Maryland Critical Area Program on December 1, 1985. The existing single-family dwelling was built in 1965 according to Real Property Data, Maryland Department of Assessments and Taxation.

The Property fronts Cuckold Creek and is constrained by the Critical Area Buffer (the “Buffer”), which has been measured 100 feet landward from the mean high water line of Cuckold Creek, pursuant to *COMAR 27.01.09.01.E(3)*, and then expanded to include the steep slopes and highly erodible soils on the Property in accordance with *COMAR 27.01.09.01.E(7)*.

The existing soil type(s) on the Property is Evesboro-Westphalia Complex (EwE2) according to the Natural Resources Conservation Service, U.S. Department of Agriculture, Web Soil Survey. This soil type is considered moderately erosive and is found on 25-40 percent slopes.

According to the site plan provided by the Applicant, and as shown in the table below, the Property contains a single family dwelling with an enclosed porch, a detached garage, a patio, a stoop, a shed, and a driveway for a total of 4,077 square feet of lot coverage. The Applicant plans to add a 694 square-foot deck with a minimum of one-eighth (1/8”) of an inch of spacing between the deck boards to allow water to flow through freely. The deck will not count as lot coverage as long as the spacing is provided.

<b>Property lot coverage in square footage ( acreage: 20,908 square feet )</b>					
Existing	To be removed	Remaining	Proposed	Following construction	Allowed 31.25%
4,077	0	4,077	0	4,077	6,534
<b>Buffer lot coverage in square footage</b>					
Existing	To be removed	Remaining	Proposed	Total	Net increase in Buffer
4,077	0	4,077	0	4,077	0

The shoreline of the Property is within Special Flood Hazard Area Zone AE according to Flood Insurance Rate Map (FIRM) panel 181F. Zone AE is defined in the County’s floodplain management regulations as special flood hazard areas subject to inundation by the 1-percent annual chance (100-year) flood; base flood elevations are determined; floodways may or may not be determined. In areas subject to tidal flooding, the Limit of Moderate Wave Action (LiMWA)