

ST. MARY'S COUNTY BOARD OF APPEALS

In the Matter of Peter and Patricia Chen
27228 Holly Lane, Mechanicsville, Maryland

Case No. VAAP #18-1662

DECISION AND ORDER**Introduction**

Peter and Patricia Chen (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 27228 Holly Lane, Mechanicsville, Maryland (hereinafter the "Property"). The application seeks a variance from Section 71.7.3.d of the Comprehensive Zoning Ordinance to disturb slopes in excess of 15% and 72.3.1.c.(2) to clear more than 30% of existing forest in the LDA overlay of the Critical Area to construct a single-family dwelling with detached garage.

After due notice, a public hearing was conducted at 6:30 p.m. on January 10, 2019, 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 Property is constrained by slopes with grade greater than 15% with highly erodible soils and is densely forested.

The existing soil types on the Property are Evesboro-westphalia (EwE2) according to the Natural Resources Conservation Service, U.S. Department of Agriculture, Web Soil Survey. Evesboro-westphalia is considered to be highly erosive and is found on slopes of 20 to 45 percent.

According to the site plan provided by the Applicant, and as shown in the table below, the applicant plans to construct a 1,386 square-foot single family dwelling, a 624 square-foot detached garage and driveway. The proposed disturbance represents 3,050 square feet of the Property. The allowed amount of lot coverage on a property of this size in the LDA is 5,445 square feet per section 41.5.3 i (1).

Property lot coverage in square footage (total lot acreage: 0.53 acres)					
Existing	To be removed	Remaining	Proposed	Following construction	Allowed
0	0	0	(3,050)	3,050	5,445

The Property is within Special Flood Hazard Area Zone X (Unshaded) according to Flood Insurance Rate Map (FIRM) panel 086E. The proposed development is in Zone X (Unshaded), which is defined in the County’s floodplain management regulations as areas outside of Zones designated A, AE, A1-30, AO, VE, V1-30, and X (Shaded). Development is proposed in Zone X (Unshaded) and is not in a regulated Special Flood Hazard Area.

A private well and septic system serve the Property.

Approximately 21,142 square feet of trees, shrubs, and other vegetation cover the Property. The Applicant plans to clear 8,375 square feet of the existing vegetation, or 39.6 % of the existing vegetation.