

IN THE ST. MARY'S COUNTY BOARD OF APPEALS

VAAP NUMBER 19-0222

BRIAN & JESSICA METCALF

SIXTH ELECTION DISTRICT

DATE HEARD: June 13, 2019

ORDERED BY:

**Mr. Hayden, Mr. Brown, Mr. Ichniowski,
Mr. Miedzinski and Mr. Richardson**

ENVIRONMENTAL PLANNER: STACY CLEMENTS

DATE SIGNED: July 11, 2019

PLEADINGS

Brian & Jessica Metcalf, the applicants, seek a variance (VAAP # 19-0222) to: 1) disturb the critical area buffer; to reconstruct a house on property with a street address of 44717 Smiths Nursery Road, Hollywood, Maryland 20636.

PUBLIC NOTIFICATION

The hearing notice was advertised in The Enterprise, a newspaper of general circulation in St. Mary's County, on May 29, 2019 and June 5, 2019. The hearing notice was also posted on the property. The file contains the certification of mailing to all adjoining landowners, even those located across a street. Each person designated in the application as owning land that is located within Two Hundred (200) feet of the subject property was notified by mail, sent to the address furnished with the application. The agenda was also posted on the County's website on Friday, June 6, 2019. Therefore, the Board finds and concludes that there has been compliance with the notice requirements.

FINDINGS

A public hearing was conducted at 6:30 p.m. on June 13, 2019, at the St. Mary's County Governmental Center, 41770 Baldrige Street, Leonardtown, Maryland. All persons desiring to be heard were heard after being duly sworn, the proceedings were recorded electronically and the following was presented with regard to the proposed variance requested by the applicants.

The Property

That the applicants own the subject property located at 44717 Smiths Nursery Road, Hollywood, Maryland 20636. It is located in the Rural Conservation District (RPD) and is known as Grid 4 in Parcel 489 on Tax Map 27. This waterfront lot on Cuckold Creek is designated in the Chesapeake Bay Critical Area as Limited Development Area (LDA).

The Proposed Work

The applicants propose to reconstruct a single-family dwelling with a garage, a patio, sidewalks, a shed, and a driveway for a total of 6,670 square feet of lot coverage, which is 5 feet less than the existing lot coverage as shown on the site plan admitted into evidence at the hearing as Attachment 3 of Exhibit 2. The new lot coverage will be comprised of a 2,706 square foot single family dwelling with attached garage, 2,289 square feet of driveway, and 608 square feet of sidewalks, 875 square feet of patio, and 192 square feet shed, which represents 16.18% percent of the Property. The allowed amount of lot coverage on a property of this size is 15%.

The St. Mary's County Comprehensive Zoning Ordinance

§ 71.8.3 of the St. Mary's County Comprehensive Zoning Ordinance requires that there shall be a minimum 100-foot buffer landward from the mean high-water line of tidal waters, tributary streams and tidal wetlands; and § 71.8.3.a stipulates that the 100-foot buffer shall be expanded beyond 100 feet to include slopes of 15% or more and is to be expanded by the greater of four feet for every 1% of slope or to the top of the slope and

shall include all land within 50 feet from the top of the slopes. Title 27 of the Code of Maryland Regulations (COMAR) Section 27.01.01 (B) (8) (ii) states a buffer exists "to protect a stream, tidal wetland, tidal waters, or terrestrial environment from human disturbance." § 71.8.3.b.1.c of the St. Mary's County Comprehensive Zoning Ordinance authorizes disturbance to the buffer for new impervious surfaces and development activities by variance. The applicants are proposing to reconstruct a single-family dwelling with a garage, a patio, sidewalks, a shed, and a driveway which will not create any new lot coverage in the critical area.

The Variance Requested

The applicants require a critical area variance from the prohibition in § 71.8.3 against disturbing the buffer to allow the reconstruction of the reconstruct a single-family dwelling with a garage, a patio, sidewalks, a shed, and a driveway as shown on the site plan admitted into evidence at the hearing as Attachment 3 of Exhibit 2.

The Evidence Submitted At The Hearing

Stacy Clements, an Environmental Planner for the St. Mary's County Department of Land Use and Growth Management (LUGM), presented the following evidence:

- 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.