

IN THE ST. MARY'S COUNTY BOARD OF APPEALS

VAAP NUMBER 19-0904

MATTHEW and KATE MOORE

FOURTH ELECTION DISTRICT

DATE HEARD: August 29, 2019

ORDERED BY:

**Mr. Hayden, Mr. Brown, Ms. Delahay,
Mr. Miedzinski and Mr. Richardson**

ENVIRONMENTAL PLANNER: STACY CLEMENTS

DATE SIGNED: September 12, 2019

Pleadings

Matthew and Kate Moore, the applicants, seek a variance (VAAP # 19-0904) to: clear more than 30% of existing forest or developed woodland to build a single-family dwelling.

Public Notification

The hearing notice was advertised in The Enterprise, a newspaper of general circulation in St. Mary's County, on August 14, 2019 and August 21, 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 Thursday, August 22, 2019. Therefore, the Board finds and concludes that there has been compliance with the notice requirements.

Public Hearing

A public hearing was conducted at 6:30 p.m. on August 29, 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 about the proposed variance requested by the applicants.

The Property

The applicants own the subject property located at 35335 Golf Course Drive, Mechanicsville, Maryland 20659. It is in the Residential Neighborhood Conservation District (RNC) and is known as Parcel 21, Grid 8 on Tax Map 16. This lot is designated in the Chesapeake Bay Critical Area as Limited Development Area (LDA).

The Variance Requested

The applicants request a critical area variance from the prohibition in § 72.3.1.c(2) against clearing in excess of 30% of any forest or developed woodland in the Critical Area to construct a 1,828 square foot single-family dwelling with a garage, 663 square feet of driveway, 54 square feet of sidewalk and 530 square feet of porches, as shown on the site plan admitted into evidence at the hearing as Exhibit 2 of Attachment 3.

The St. Mary's County Comprehensive Zoning Ordinance

The St. Mary's County "Critical Area" includes all water of and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on the State wetlands maps, and all State and private wetlands designated under Title 16 of the Environment Article; and all land and water areas within 1,000 feet beyond the landward boundaries of State or private wetland and the heads of tide designated under Title 9 of the Environment Article (41.1.1 of the St. Mary's Comprehensive Zoning Ordinance; "SMCZO"). No person shall develop, alter, or use any land for residential, commercial, industrial or institutional uses, nor conduct agricultural, fishery, or forestry activities in the St. Mary's County Critical Area except in compliance with the applicable provisions of this Ordinance. (41.1.3 of SMCZO).

If a project involves the alteration of forest, all forest cover removed must be mitigated pursuant to Section 72.3.5. Clearing in excess of 30 percent of any forest or developed woodland is prohibited. (72.3.c.(2) of SMCZO).

The Evidence Submitted at the Hearing by LUGM

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.
- The Property is constrained by the Critical Area Boundary (the "Boundary"). The Boundary is measured from the mean high-water line of Wicomico River pursuant to *COMAR 27.01.01.(18)(b)(iv)*.
- The existing soil types on the Property is Othello fine sandy loam (On), according to the Natural Resources Conservation Service, U.S. Department of Agriculture, Web Soil Survey. Othello fine sandy loam is found on slopes of 0-2 percent, considered poorly drained and are slightly erodible.
- According to the site plan provided by the Applicant, the Property proposes a single-family dwelling with a garage, a porch, and a driveway for a total of 3,045 square feet of lot coverage. The new lot coverage will be comprised of an 1,828 square foot single family dwelling with attached garage, 663 square feet of driveway, and 54 square foot of sidewalk, and 530 square feet of porches, which