

IN THE ST. MARY'S COUNTY BOARD OF APPEALS

VAAP NUMBER 19-1180

JAIME and DEBORAH ROSADO

SEVENTH ELECTION DISTRICT

DATE HEARD: October 10, 2019

ORDERED BY:

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

ENVIRONMENTAL PLANNER: STACY CLEMENTS

DATE SIGNED: November 14, 2019

Pleadings

Jaime and Deborah Rosado, the applicants, seek a variance (VAAP # 19-1180) to exceed lot coverage limits in order to construct a porch on the Property.

Public Notification

The hearing notice was advertised in The Enterprise, a newspaper of general circulation in St. Mary's County, on September 25, 2019 and October 2, 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 Tuesday, October 8, 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 October 10, 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 37211 Gibson Road, Bushwood, MD 20618. It is in the Rural Preservation District (RPD) and is identified on Tax Map 46,

Grid 9, Parcel 124. This lot is designated in the Chesapeake Bay Critical Area as Limited Development Area (LDA) Overlay.

The Variance Requested

The applicants request a critical area variance from the prohibition of § 41.5.3 to exceed the lot coverage limit in order to build a porch 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

Lot coverage means the percentage of a total lot or parcel that is occupied by a structure, accessory structure, parking area, driveway, walkway or roadway. Annotated Code of Maryland, Natural Resources, § 8-1802(a)(17). The St. Mary's County Comprehensive Zoning Ordinance requires the impervious surface limit on lots between 21,781-36,300 sq. ft. to be no more than 5,445 sq. ft. § 41.5.3.i(1).

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 before the adoption of the Maryland Critical Area Program on December 1, 1985.
- The Property is adjacent to Whites Neck Creek and is constrained by the Critical Area Boundary (the "Boundary"). The Critical Area Boundary (the "Boundary") is

measured from the mean high-water line of Whites Neck Creek pursuant to *COMAR 27.01.01.(18)(b)(iv)*.

- The existing soil types on the Property, according to the Natural Resources Conservation Service, U.S. Department of Agriculture, Web Soil Survey are Sassafras sandy loam (SaaB), which is found on slopes of 2 to 5 percent, and is considered well drained and slightly erodible and Sassafras sandy loam (SaaC), which is found on slopes of 5 to 10 percent, and is considered well drained and moderately erodible.
- According to the site plan provided by the Applicant, the Property proposes a 12' X 30' screened porch for a total of 5,749 square feet of lot coverage. The allowed amount of lot coverage on a property of this size is 5,445 sf.
- The Property is within Special Flood Hazard Area Zone X according to Flood Insurance Rate Map (FIRM) panel 143F. The proposed development is in unshaded X and is more than 50' feet away from a regulated Special Flood Hazard Area.
- A private well and septic serves the Property.
- Approximately 4,000 square feet of trees, shrubs, and other vegetation cover the Property. The Applicant does not plan to clear existing vegetation.
- In accordance with *COMAR 27.01.09.01-1*, mitigation is required at a ratio of one to one per square foot of the variance granted for the redevelopment activity within the Critical Area Boundary for a total of 360 square feet of mitigation plantings.