

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

**VAAP NUMBER 19-1258**

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**CHRISTINE BLINN**

**EIGHTH ELECTION DISTRICT**

**DATE HEARD: October 10, 2019**

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**ORDERED BY:**

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

**ENVIRONMENTAL PLANNER: STACY CLEMENTS**

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**DATE SIGNED: November 14, 2019**

### **Pleadings**

Christine Blinn, the applicant, seek a variance (VAAP # 19-1258) to disturb the critical area buffer to replace and construct a deck on subject 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 applicant owns the subject property located at 45910 Harbor Lane, Lexington Park, MD 20653. It is in the Residential Neighborhood Conservation (RNC) District. It is

identified on Tax Map 35A, Grid 5, Parcel 3 and Lot 11. This lot is designated in the Chesapeake Bay Critical Area as Limited Development Area (LDA) Overlay.

### **The Variance Requested**

The applicant requests a critical area variance from the prohibition in § 71.8.3.a.(1), against disturbing the expanded buffer to replace and build a deck 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 Comprehensive Zoning Ordinance ("SMCCZO") requires there shall be a minimum 100-foot buffer landward from the mean high-water line of tidal waters, tributary streams and tidal wetlands. § 71.8.3. 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." No new impervious surfaces or development activities are permitted in the 100-foot buffer unless the applicant obtains a variance. § 71.8.3.b.1.c of the SMCCZO.

### **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 fronts Patuxent River and is constrained by the Critical Area Buffer (the "Buffer"), by steep slopes, and severely and moderately erodible soils. The Buffer is established a minimum of 100-feet landward from the mean high-water line of tidal waters, tidal wetlands, and tributary streams (CZO 71.8.3) and is expanded to include contiguous steep slopes, hydric soils whose development or disturbance may impact streams, wetlands or other aquatic environments, and highly erodible soils [CZO 71.8.3.a.(1)].
- The existing soil types on the Property, according to the Natural Resources Conservation Service, U.S. Department of Agriculture, Web Soil Survey, are Evesboro-Westphalia complex (EwE2), which is found on slopes of 20 to 45 percent, is considered well drained and severely erodible; and Mattapex silt loam (MuaB), found on slopes of 2 to 5 percent which are considered moderately well drained and moderately erodible.
- According to the site plan provided by the Applicant, the Property has 8,376 square feet of existing lot coverage. The applicant proposes removing an 80 square foot shed and a 610 square foot deck. They are proposing to replace the deck with a new 730 square foot deck and adding new stairs for a total of 8,356 square feet of lot coverage, thus reducing the lot coverage by 20 square feet. The allowed amount of lot coverage on a property of this size is 5,946 sf.
- The Property is within Special Flood Hazard Area Zone X and AE-5 according to Flood Insurance Rate Map (FIRM) panel 203F. The proposed development is in