

IN THE ST. MARY'S COUNTY BOARD OF APPEALS

VAAP NUMBER 19-132-00001

CALLAWAY 7-ELEVEN

SECOND ELECTION DISTRICT

DATE HEARD: JANUARY 14, 2021

ORDERED BY:

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

ENVIRONMENTAL PLANNER: STACY CLEMENTS

DATE SIGNED: February 11, 2021

Pleadings

George & Lorianne Bowes (“the Applicants”) seek a variance (VAAP # 19-132-00001) to reduce the required 65-foot Type B buffer yards along Maryland Routes 5 and 249 as shown on Concept Site Plan approved by the Planning Commission on August 17, 2020.¹

Public Notification

The hearing notice was advertised in *The Enterprise*, a newspaper of general circulation in St. Mary’s County, on December 25, 2020 and January 1, 2021. The hearing notice was also posted on the Property. The file contains the certification of mailing to all adjoining landowners, including those located across a street. Each person designated in the application as owning land that is located within two hundred 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 January 6, 2021. Therefore, the Board finds and concludes that there has been compliance with the notice requirements.

Public Hearing

A public hearing was conducted virtually at 6:30 p.m. on January 14, 2021 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 20915 Point Lookout Road, Callaway,

¹ The legal advertisement included the request “to reduce the required 30- foot Type C buffer yard along the east side of the property”; however, this was in error.

Maryland (the “Property”). The Property is in the Village, Mixed Use (“VMX”) zoning district and is identified on Tax Map 50, Grid 16, Parcel 117.

The Variance Requested

The Applicants request a variance from Schedule 63.3.a of the St. Mary’s Comprehensive Zoning Ordinance (“CZO”) to reduce the required 65-foot Type B buffer yards along Maryland Routes 5 and 249 as shown on Concept Site Plan approved by the Planning Commission on August 17, 2020, which was admitted into evidence at the hearing as Attachment 10 of Exhibit 2.

The St. Mary’s County Comprehensive Zoning Ordinance

Under Schedule 63.3.a, a Type B buffer is a minimum of 65 feet in depth and requires 4 canopy trees, 5 understory trees, 22 shrubs, and 11 evergreens and shrubs, all planted every 100 feet along the property line.

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 Property is located at the intersection of Maryland Route 5, also known as Point Lookout Road, and Maryland Route 249, also known as Piney Point Road. It has approximately 170 feet of road frontage on Maryland Route 5 and approximately 250 feet of road frontage on Maryland Route 249.
- The Property is in the Callaway Village Center, a Growth Area, per CZO § 30.2.1.c. 3.
- The Concept Site Plan proposes to remove the existing structures and redevelop the property with a 3,500-sf convenience store and a 3,183-sf fuel sales canopy. The Property currently has a single-family home according to the Maryland Department of Assessment and Taxation.

- Staff Review memo, dated January 29, 2019 (attachment 2), includes the following comments:
 - “18. Section 62.8.2.d & Schedule 63.3.b: A Type B buffer yard is required for both a scenic corridor and a commercial high use where adjacent to a right-of-way with a major collector or higher road classification. Therefore, a Type B buffer yard is required where adjacent to Point Lookout Road and Piney Point Road.
 - 19. Section 63.6.b & Schedule 63.3.b: Please confirm current use of adjacent property to the east (parcel 22). If vacant and not agricultural, the proposed use shall provide one-half of the buffer yard as if the adjoining vacant lot was occupied by a low-intensity residential use.”
 - Note: The use of parcel 22 was determined to be vacant and not agricultural, therefore, a 15-foot Type C buffer yard is the minimum required along this property line, per CZO § 63.6.b.
- The final Staff Report prepared for the Planning Commission meeting of July 13, 2020, (attachment 3) includes the final findings:
 - “g. Section 63.3. Buffer Yard Requirements: A Type B buffer yard is required on Point Lookout Rd. and Piney Point Rd. The applicant must make application to the Zoning Board of Appeals for a reduction in the Type B buffer yard requirements. A Type C buffer yard, reduced from 30’ to 15’, is required on the East property line. A Type C buffer yard is required on the Southern property line.
 - Note: The portion of the third sentence above, “reduced from 30’ to 15’,” was misinterpreted by staff to mean that this too required a variance, thus leading to the erroneous inclusion in the legal ad.