

IN THE ST. MARY'S COUNTY BOARD OF APPEALS

VAAP NUMBER 19-2160

LUMPKINS PROPERTY

SECOND ELECTION DISTRICT

DATE HEARD: OCTOBER 8, 2020

ORDERED BY:

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

ENVIRONMENTAL PLANNER: STACY CLEMENTS

DATE SIGNED: October 22, 2020

Pleadings

Benjamin & Dawn Lumpkins (“the Applicants”) seek a variance (VAAP # 19-2160) to disturb the expanded 100-foot Non-Tidal Wetland Buffer to build a single-family dwelling with a sidewalk, steps, deck, and driveway.

Public Notification

The hearing notice was advertised in *The Enterprise*, a newspaper of general circulation in St. Mary’s County, on September 18, 2020 and September 25, 2020. 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 September 30, 2020. 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 8, 2020 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 a 17,446 square foot unimproved property at 17896 Piney Point Road, Piney Point, Maryland (the “Property”). The Property is in the Residential Low Density (“RL”) zoning district with an Intensely Developed Area (“IDA”) Overlay and is identified on Tax Map 65, Grid 4, Parcel 263, Lot 500-5 in the Sheehan Subdivision.

The Variance Requested

The Applicants request a variance from § 71.5.2.b of the St. Mary's Comprehensive Zoning Ordinance ("CZO") to disturb the expanded 100-foot Non-Tidal Wetland Buffer to build a single-family dwelling with a sidewalk, steps, deck, and driveway.

The St. Mary's County Comprehensive Zoning Ordinance

Pursuant to CZO § 71.5.2.b, the 25-foot buffer from the edge of non-tidal wetlands "shall be expanded up to 100 feet to include areas of adjoining hydric soils."

The Evidence Submitted at the Hearing by LUGM

Harry Knight, Deputy Director for the St. Mary's County Department of Land Use and Growth Management ("LUGM"), presented the following evidence:

- The Property sits on a lot that was recorded in 1966 at Liber 6, Folio 28.
- The existing soil type on the Property is Othello silt loam (Ot), according to the Natural Resources Conservation Service, U.S. Department of Agriculture, Web Soil Survey. Othello silt loam is found on slopes of 0-2 percent and are considered poorly drained (hydric) with a slight erosion hazard. See Attachment 4, Soils and Wetland Map, to view the impacts of hydric soils on Lot 500-5 of Sheehan Subdivision.
- According to the site plan provided by the Applicants, the owner proposes a single-family dwelling with sidewalks and steps, a deck and a driveway for a total of 15,809 square feet of soil disturbance. Included in the calculations for soil disturbance are the rain gardens, necessary for stormwater management, and the installation of a well and connection into the Metropolitan Commission's ("MetCom's") existing sewer line.
- Non-tidal wetlands are located approximately 35 feet from the proposed soil disturbance

for this project, as delineated on Maryland's Department of Natural Resources ("DNR") mapping system. Due to the hydric soil conditions present on the site, the non-tidal wetland buffer is expanded to 100 feet, per Section 71.5.2.b of the CZO.

- MetCom approved the site plan on June 16, 2020. St. Mary's Soil Conservation District received the plan for review on July 1, 2020. LUGM reviewed the site plan for stormwater management, zoning, and Critical Area requirements. Stormwater management and Critical Area were approved on February 21, 2020 and May 6, 2020, respectively. Zoning approval is pending this Board of Appeals hearing.
- If the variance is granted, it shall lapse one year from the date of the grant of the variance, if the Applicants have not obtained the building permit, per CZO § 24.8.1.
- The following Attachments to the Staff Report were introduced:
 - #1: Standards Letter
 - # 2: Location Map
 - # 3: Zoning Map
 - # 4: Soils & Wetlands Map
 - # 5: Site Plan
 - # 6: Sheehan, Plat Book 62/56
 - # 7: Sheehan, Plat Book 6/28

Applicants Testimony and Exhibits

The Applicants appeared via WebEx before the Board, and their representative, Steven Vaughan, appeared in person. The following evidence was presented:

- The Applicants sought to have a preapplication meeting with the Maryland Department of the Environment, but COVID-19 prevented such a meeting.