

IN THE ST. MARY'S COUNTY BOARD OF APPEALS

VAAP NUMBER 19-2437

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PARRY PROPERTY

FIRST ELECTION DISTRICT

DATE HEARD: OCTOBER 29, 2020

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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 12, 2020

### **Pleadings**

Thomas and Virginia Parry (“the Applicants”) seek a variance (VAAP # 19-2437) to disturb the expanded Critical Area Buffer (the “Buffer”) to construct two decks and a variance to encroach into the front setback to construct a deck.

### **Public Notification**

The hearing notice was advertised in *The Enterprise*, a newspaper of general circulation in St. Mary’s County, on October 9, 2020 and October 16, 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 October 21, 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 29, 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 11,250 square foot property at 14025 Cornfield Harbor Dr, Scotland, Maryland (the “Property”). The Property is in the Rural Preservation District (“RNC”) zoning district with a Limited Developed Area (“LDA”) Overlay and is identified on Tax Map 74, Grid 9, Parcel 108, Lot 4, Section 1 in the Cornfield Harbor Subdivision.

### **The Variances Requested**

The Applicants request a variance from the Comprehensive Zoning Ordinance (“CZO”) § 71.8.3, to disturb the expanded Critical Area Buffer to construct 2 decks and from Schedule 32.1 to encroach 18 feet upon the 25-foot front setback to construct a deck.

### **The St. Mary’s County Comprehensive Zoning Ordinance**

Pursuant to CZO § 71.8.3.b, “No new . . . development activities . . . shall be permitted in the 100-foot buffer, unless: . . . The applicant obtains a variance pursuant to Article 2.” CZO § 71.8.3.a.(1) adds, “The 100-foot buffer shall be expanded to include contiguous steep slopes, hydric soils whose development or disturbance may impact streams, wetlands or other aquatic environments, and highly erodible soils pursuant to Section 76.3.1”

Next, pursuant to CZO Schedule 32.1, the minimum front setback is 25 feet.

### **The Evidence Submitted at the Hearing by LUGM**

Stacy Clements, Environmental Planner for the St. Mary’s County Department of Land Use and Growth Management (“LUGM”), presented the following evidence:

- The existing house is approximately 18 feet from the nearest front lot line and therefore within the 25-foot front setback. The CZO defines the Front Lot Line as “That boundary of a lot that is along an existing or dedicated public street, or, where no public street exists, is along a public way”. Therefore, the house has a “non-conforming” front setback due to its existence at the time the CZO was adopted.
- The Applicant is proposing to construct a 12-foot by 36-foot deck on the front of the existing house located on Lot 4 of Cornfield Harbor Subdivision (Attachment 2). Per Schedule 32.1 of the CZO, the required front setback for the lots within the RPD is 25 feet. The house already encroaches upon the front setback by an