

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

**VAAP NUMBER 20-0678**

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**GLENN ELROD & GEORGE BUCKLER**

**FIFTH ELECTION DISTRICT**

**DATE HEARD: SEPTEMBER 24, 2020**

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**ORDERED BY:**

**Mr. Hayden, Mr. Brown, Mr. Ichniowski,  
Mr. Miedzinski, and Mr. Richardson**

**ENVIRONMENTAL PLANNER: STACY CLEMENTS**

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**DATE SIGNED: October 08, 2020**

### **Pleadings**

Glenn Elrod & George Buckler (“the Applicants”) seek a variance (VAAP Number 20-0678) to clear more than 30 percent of the developed woodland on a vacant lot in the Critical Area (“the Subject Property”) to single-family dwelling with a garage, sidewalk and steps, driveway, septic, well, and raingarden on the Subject Property.

### **Public Notification**

The hearing notice was advertised in *The Enterprise*, a newspaper of general circulation in St. Mary’s County, on September 4, 2020 and September 11, 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 16, 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 September 24, 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 the Subject Property, an approximately 15,000 a square foot vacant lot located at 29776 Wilson Road, Mechanicsville, Maryland in the Golden Beach subdivision.

The Subject Property is in the Rural Neighborhood Conservation (“RNC”) zoning district with a Limited Development Area (“LDA”) Overlay and is identified on Tax Map 5A, Grid 6, Parcel 338, Lot 721, Section 2. The lot is currently undeveloped and 100 percent covered by developed woodland.

### **The Variance Requested**

The Applicants request a variance from Comprehensive Zoning Ordinance (“CZO”) § 72.3.1.c.(2) to clear more than 30 percent of the developed woodland on the Subject Property. Specifically, the Applicants propose to clear 13,120 square feet, or 87 percent, of the existing developed woodland, or forest, on the lot.

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

Pursuant to CZO § 72.3.1.c.(2):

If a project involves the alteration of forest, all forest cover removed must be mitigated pursuant to Section 76.3.5. Clearing in excess of 30 percent of any forest or developed woodland is prohibited.

### **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 Subject Property is a vacant lot in the Critical Area, recorded in the Land Records of St. Mary’s County in 1956. Ex. 2, Att. 2. This was before the adoption of the Maryland Critical Area Program on December 1, 1985. Therefore, the lot is “grandfathered” and eligible for a variance.
- Per CZO Chapter 90, “Developed Woodland” is defined as, “Those area of 1 acre or more in size that predominately contain trees and natural vegetation, and which also include residential, commercial or industrial structures or uses. On individual lots or

parcels of less than 1-acre, individual trees, woody vegetation, as well as natural vegetation and forests contribute to the developed woodland coverage for the larger vicinity and shall be subject to the provisions of this Ordinance.”

- According to the site plan provided by the Applicants, the Subject Property owner proposes a single-family dwelling with a garage, sidewalk and steps, driveway, septic, well and raingarden for a total of 13,120 square feet of clearing.
- In accordance with CZO § 72.3.3.a(2)(c), clearing in excess of 30% requires mitigation at a ratio of three to one. The requested variance for the clearing of 13,120 sf results in a total of 39,360 square feet of mitigation to be provided by fee in lieu or plantings.
- The St. Mary’s County Health Department (“Health Department”) approved the site plan on June 18, 2020. The St. Mary’s Soil Conservation District (“SCD”) approved the site plan on June 22, 2020. LUGM reviewed the site plan for compliance with zoning, stormwater management and Critical Area requirements. LUGM approved the site plan for zoning and stormwater management regulations on May 20, 2020. Development in the Critical Area cannot be approved without this variance.
- The Maryland Critical Area Commission provided a comment letter dated July 28, 2020. Ex. 3, Att. 3.
- 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 Section 24.8.1.
- The following Attachments to the Staff Report were introduced:
  - #1: Standards Letter from the Applicants
  - # 2: Golden Beach Section 2, Plat 3, Plat Book 003/11, recorded May 25, 1956
  - # 3: Critical Area Commission Comments dated July 28, 2020