

IN THE ST. MARY'S COUNTY BOARD OF APPEALS

VAAP # 20-2089

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HODSKINS PROPERTY

SIXTH ELECTION DISTRICT

DATE HEARD: APRIL 8, 2021

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ORDERED BY:

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

ENVIRONMENTAL PLANNER: STACY CLEMENTS

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DATE SIGNED: May 13, 2021

### **Pleadings**

Cindi Hodskins (“the Applicant”) seeks a variance (VAAP # 20-2089) from Comprehensive Zoning Ordinance (“CZO”) § 52.3.3.e for a proposed expansion or enlargement exceeding 25 percent of the existing non-conforming structure (a detached garage), which is less than 5 feet from the side property line and 10 feet from the principal structure, and CZO § 71.8.3 to disturb the Critical Area Buffer (“Buffer”) to add a 15 foot by 24 foot deck.

### **Public Notification**

The hearing notice was advertised in *The Southern Maryland News*, a newspaper of general circulation in St. Mary’s County, on March 19, 2021 and March 26, 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 Property was notified by mail, sent to the address furnished with the application. The agenda was also posted on the County’s website on March 31, 2021. 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 April 8, 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 Applicant.

### **The Property**

The Applicant owns 23,958 and 8,041 square foot lots at 45311 Clarkes Landing Road, Hollywood, Maryland (the “Property”). The Property is in the Rural Preservation District (“RPD”)

zoning district with a Limited Developed Area (“LDA”) Overlay and is identified on Tax Map 27, Grid 18, Parcels 372 and 931.

### **The Variances Requested**

The Applicant requests a variance from CZO § 52.3.3.e for a proposed expansion or enlargement exceeding 25 percent of a existing detached garage, which is less than 5 feet from the side property line and 10 feet from the principal structure, and CZO § 71.8.3 to disturb the Buffer to add a 15 foot by 24 foot deck.

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

Pursuant to CZO § 52.3.3.e, “In the event the area of the proposed expansion or enlargement exceeds 25 percent of the existing structure or use the enlargement or expansion must be approved by the Board of Appeals. However, the total amount of expansion or enlargement allowed for any nonconforming use shall not exceed 50 percent. The standards to be employed in deciding on the application shall be the same as those contained in Chapter 25 for conditional uses.”

Next, under CZO § 71.8.3, “No new . . . development activities . . . shall be permitted in the 100-foot buffer, unless: . . . The applicant obtains a variance pursuant to Article 2.”

### **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, recorded in the Land Records on 02/02/1968 in Deed Book MRF 139 Page 419, Ex. 2, Att. 2, contains a single-family dwelling, a garage and a shed. According to the Maryland Department of Assessments and Taxation records, the house was constructed in 1966. The garage, according to St. Mary’s County Aerial Maps, before 1973, Thus, both

the home and garage were constructed prior to the adoption of the current zoning and subdivision regulations in St. Mary's County and before the adoption of the Maryland Critical Area Program on December 1, 1985. The existing house currently infringes on the 100 foot Critical Area Buffer and is eligible for a Critical Area variance from the standards.

- The Property is situated adjacent to the Mill Creek, a tributary of the Patuxent River. The Buffer is established a minimum of 100-feet landward from the mean highwater line of tidal waters, tidal wetlands, and tributary streams and, therefore, is constrained by the Buffer. CZO § 71.8.3.
- Per the site plan Ex. 2, Att. 3, the Applicant is proposing to add a 360 square foot deck to the house and 730 square foot second floor to the existing detached garage. The proposed deck is entirely within the 100-foot Buffer. The proposed path does not require a variance as each property owner on the waterfront is allowed a 3' path to the pier, without a variance, per CZO § 71.9.8.j.
- In accordance with CZO § 72.3.3.a(2)(c), mitigation is required at a ratio of 3:1 per square foot of the variance granted for permanent disturbance within the Buffer of 360 square feet with 1,080 square feet to be provided by on-site plantings. A planting agreement and plan will be required prior to the issuance of a building permit.
- The Maryland Critical Area Commission provided a comment letter dated October 21, 2020. Ex. 2, Att. 4.
- Pursuant to CZO § 52.3.3, a non-conforming structure, proposing an "expansion or enlargement that exceeds 25 percent of the existing structure or use the enlargement or expansion must be approved by the Board of Appeals. However, the total amount of expansion or enlargement allowed for any nonconforming use shall not exceed 50 percent."