

ST. MARY'S COUNTY BOARD OF APPEALS

In the Matter of St. Anne's Anglican
Catholic Church
29530 Charlotte Hall Road
Charlotte Hall, Maryland

Case No. VAAP # 12-132-001

DECISION AND ORDER**Introduction**

St. Anne's Anglican Catholic Church (hereinafter "Applicant") filed an application for a variance from the regulations of the St. Mary's County Comprehensive Zoning Ordinance (hereinafter the "Ordinance") regarding property located at 29530 Charlotte Hall Road, Charlotte Hall, Maryland (hereinafter the "Property"). The application seeks to reduce the required 65 foot Type B buffer yard to a 30 foot type C Buffer without a fence or berm along the northern and southern boundary lines.

After due notice, a public hearing was conducted at 6:30 p.m. on January 14, 2016, at the St. Mary's County Governmental Center at 41770 Baldrige Street in Leonardtown, Maryland. All persons desiring to be heard were heard after being duly sworn and documentary evidence was received. The proceedings were recorded electronically.

Legal Standard

The Board shall not vary the regulations of the Ordinance unless it finds, based on the evidence, that:

1. Because of particular physical surroundings such as exceptional narrowness, shallowness size, shape or topographical conditions of the property involved, strict enforcement of the Ordinance will result in practical difficulty.
2. The conditions creating the difficulty are not applicable, generally, to other properties within the same zoning classification.
3. The purpose of the variance is not based exclusively upon reasons of convenience, profit or caprice; provided, any development necessarily increases property value, and that alone shall not constitute a finding of an exclusive reason.
4. The alleged difficulty has not been created by the property owner or the owner's predecessors in title.
5. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood and the character of the district will not be changed by the variance.

6. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.
7. The variance complies, as nearly as possible, with the spirit, intent, and purpose of the Comprehensive Plan.

Findings of Fact

The Property ranges in width from approximately 125 feet to 220 feet with a depth of about 753 feet. Nontidal wetlands and their attendant 25 foot buffer constrain the Property's east side, which fronts Maryland Route 5. This same area will be further restricted from development by a dedication to the State Highway Administration of a strip of land measuring 110 feet from the median centerline of Maryland Route 5. Access to the Property is, and will continue to be, by way of Charlotte Hall Road.

The Property will be served by a septic system approved by the Health Department, but will be served by public water, pending approval by the Maryland Department of the Environment of an amendment to the St. Mary's County Comprehensive Water and Sewerage Plan. The 10,000 square foot septic easement and a micro-bioretenion facility and earth dikes will occupy the area between the proposed project and the wetlands. A bio-swale measuring 8 feet by 124 feet will be constructed on the south side of the parking lot and a bio-swale measuring 10 feet by 110 feet will be constructed north of the parking lot.

The Planning Commission approved the Concept Site Plan at a December 14, 2015 public hearing.

Conclusions of Law

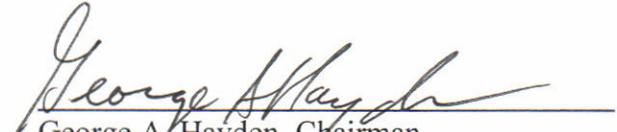
The unusual topography of the Property, nontidal wetlands buffer, road dedication and stormwater management facilities are such that strict enforcement of this Ordinance will result in practical difficulty. These conditions do not apply to other properties generally and are not attributable to the Applicant or its predecessors-in-title. The requested variance will not affect the character of the neighborhood. Development as proposed will have no adverse impact on public safety or values in the neighborhood.

The Property is located within the boundaries of the Charlotte Hall Town Center, a designated growth area where a mix of land uses is encouraged. Section 4.1.2 of the Comprehensive Plan encourages redevelopment of existing lots and has established a policy calling for the County to expand redevelopment, rehabilitation and adaptive reuse incentives. Adequate buffers should be provided to avoid conflicts between different land use types and to provide visual screening. The proposed Type C Buffer is sufficient to meet that objective.

ORDER

NOW, THEREFORE, BE IT ORDERED, that, having made a finding that the standards for a variance and the objectives of Section 24.3 of the St. Mary's County Comprehensive Zoning Ordinance have been met, a variance to reduce the required 65 foot Type B buffer to a 30 foot Type C buffer without a fence or berm along the northern and southern boundary lines is *granted*.

Date: March 10, 2016


George A. Hayden, Chairman

Those voting to grant the variance:

Mr. Hayden, Mr. Brown, Mr. Greene, Mr. Payne and Mr. Miedzinski

Those voting to deny the variance:

Approved as to form and legal sufficiency:


George R. Sparling, County Attorney