

ST. MARY'S COUNTY GOVERNMENT
DEPARTMENT OF LAND USE
AND GROWTH MANAGEMENT
Jessica S. B. Andritz, Esq., Director
Courtney Jenkins, AICP, Deputy Director



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April 11, 2024

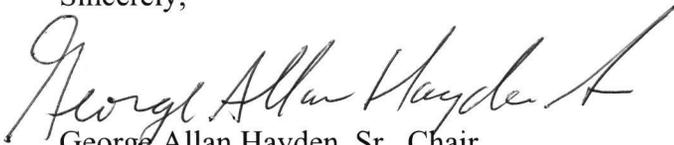
Commissioners of St. Mary's County
Chesapeake Building
41770 Baldrige Street
Leonardtown, Maryland 20650

Re: Board of Appeals 2023 Annual Report

Dear Commissioners:

On behalf of the Board of Appeals I am pleased to present our Annual Report for Calendar Year 2023. The report provides an overview of the Board's responsibilities and includes several charts comparing the different types of cases heard over the past four years. A summary noting the cases heard in 2023 and the Board's decisions on these cases is attached.

Sincerely,


George Allan Hayden, Sr., Chair
St. Mary's County Board of Appeals

St. Mary's County Board of Appeals Annual Report



Calendar Year
2023

Prepared By:
The Department of Land Use and Growth Management

ST. MARY'S COUNTY BOARD OF APPEALS 2023 MEMBERSHIP

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Steve Scott, Special Counsel to Board of Appeals

COUNTY COUNSEL

Buffy Giddens, County Attorney
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Amy Carter, Video Media Producer - Public Information Office

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I. INTRODUCTION

A. Formation of the Board of Appeals in St. Mary's County

The Board of Appeals (hereinafter the "Board") was created pursuant to Subtitle 3, §4-301, *Land Use Article, Annotated Code of Maryland*.

The Board consists of five (5) members and one (1) alternate appointed by the Commissioners of St. Mary's County. Board members can serve no more than two consecutive, three-year, staggered terms. To ensure the Board can meet its quorum requirements and hold public hearings, the *Land Use Article* authorizes a local legislative body to designate one alternate member who has been empowered to sit on the Board in the absence of any member.

B. Functions of the Board of Appeals in St. Mary's County

The Board is a quasi-judicial body responsible for presiding over public hearings on appeals, variances, and conditional uses. By doing so, the Board, as a whole, is responsible for defending the public interests as defined by the St. Mary's County Comprehensive Zoning Ordinance Z-10-02, as amended, (hereinafter the "Ordinance"). The purpose of the Board is to ensure that zoning is fair, correctly interpreted, and does not cause excessive hardship upon landowners in St. Mary's County.

As outlined in the Ordinance and the *Land Use Article*, the Board has four (4) main functions to ensure that the goals and objectives of the Comprehensive Plan are met and that the regulations of the Ordinance are implemented. These powers and duties include:

- 1) To hear and decide appeals when it is alleged there is an error in any order, requirement, decision, or determination made regarding the enforcement of the Ordinance or of any amendments adopted thereto.
- 2) To authorize, upon application in specific cases, a variance from specific regulations of the Ordinance. The modifications in a variance may be only of density, bulk, dimensional, or area requirements of the Ordinance in accordance with Section 4-206 of the *Land Use Article*.
- 3) To adopt and promulgate such rules and regulations as it shall deem necessary in the conduct of its hearings; and
- 4) To hear and act upon conditional use applications as provided in Chapter 25 of the Ordinance.

All decisions and findings of the Board are subject to judicial review.

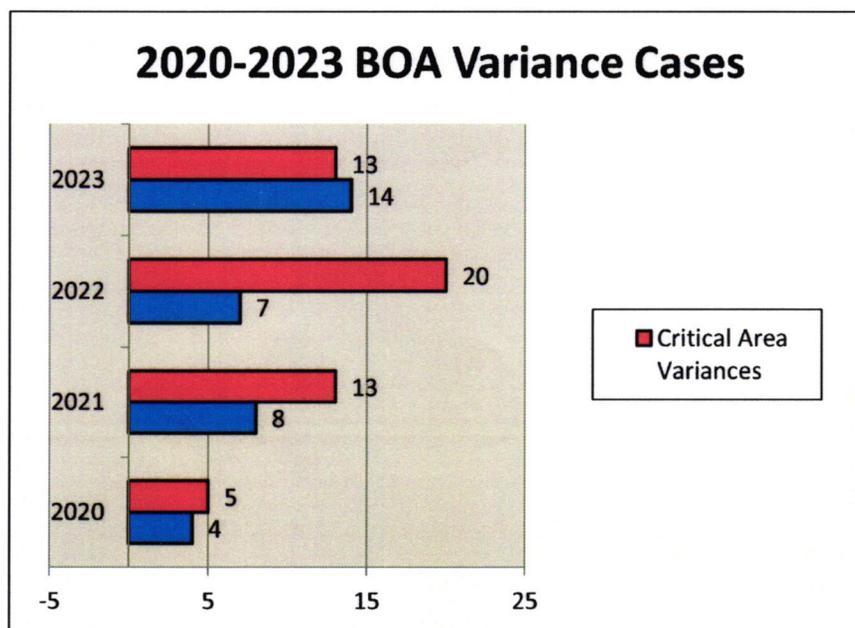
II. 2023 CASELOAD

A. Board of Appeals Variance Cases for 2023

The Board of Appeals (the “Board”) has the authority to vary the density, bulk, dimensional, or area requirements of the Ordinance in accordance with allowed modifications specified in the *Land Use Article* of the *Annotated Code*. A variance may only be allowed where, owing to conditions peculiar to the property and not because of any action taken by the applicant, a literal enforcement of the Ordinance would result in practical difficulty as specified in the Ordinance. A variance may not be contrary to the public interest.

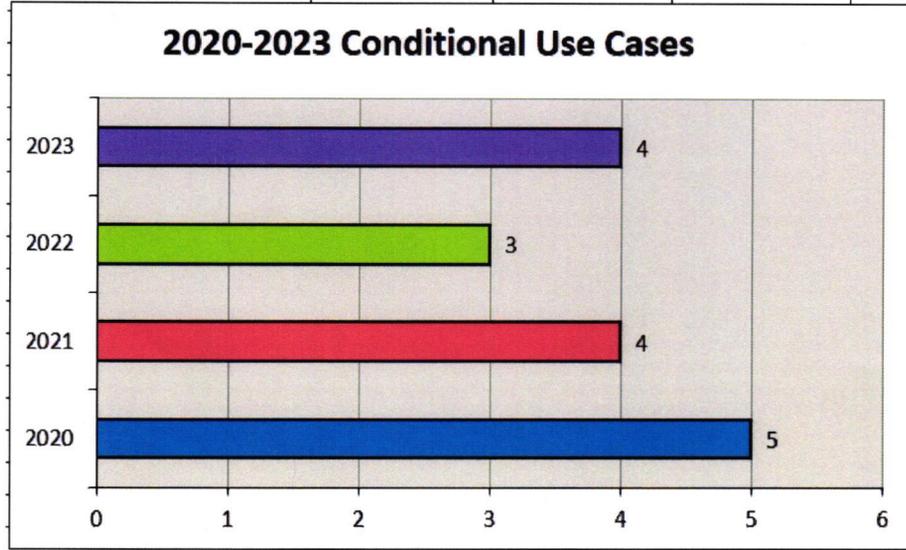
Variations may be granted from the provisions of the Critical Area Program as implemented in Chapter 41 of the Ordinance, Chesapeake Bay Critical Area Overlay Districts, and Chapter 71, Resource Protection Standards, when it has been found that the literal enforcement of those provisions would result in unwarranted hardship on the landowner. The most common Critical Area variance request is to disturb the Critical Area Buffer, which is a protected area measured a minimum of 100 feet landward from the mean high-water line of tidal waters, tidal wetlands, and tributary streams in the Critical Area.

The chart below provides an itemization of Board of Appeals variance requests heard and decided in calendar years 2020 through 2023. As shown in the chart, the Board heard a total of thirteen (51) Critical Area variance requests during this period, an average of about fourteen (13) cases per year. During this same time the Board heard fourteen (33) standard variance requests, an average of eight (8) cases per year.



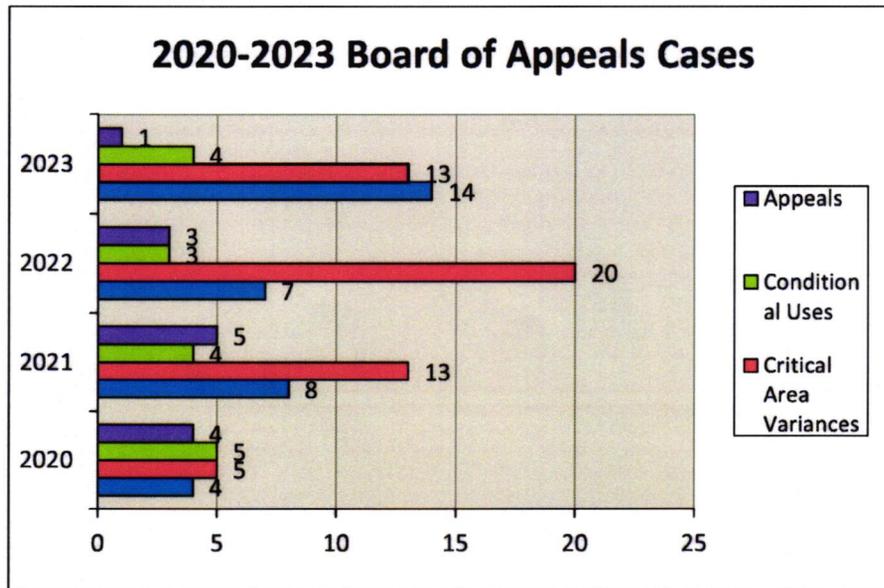
B. Board of Appeals Conditional Use Cases for 2023

The following chart provides an itemization of Board of Appeals conditional use cases heard and decided in calendar years 2020 through 2023. The Board heard an average of four (4) cases per year over the past four years.



C. Total Board of Appeals Cases for 2023

The following chart is a summary of all Board of Appeals cases: variances, conditional uses, and appeals, beginning with calendar year 2020 through calendar year 2023. The Board heard an average of four (28) cases per year over the past four years.



III. LIST OF CASES

January 12, 2023: 4 cases

1. VAAP 22-1484 - OKONIEWSKI- **Continued to March 9, 2023**
Variances from Section 71.8.3 to disturb the Critical Area for an after-the-fact wood ramp and from Schedule 32.1 for a reduction of the mandatory front and side setbacks for an after-the-fact shed.
8th Election District: 45834 Patuxent Ln, California, MD
2. VAAP 22-1666 - BRETON BAY LANDINGS HOA – **Approved**
Variance from Section 71.8.3 to disturb the Critical Area for a retaining wall.
3rd Election District: Tax ID 1903044866, Breton View Dr, Leonardtown, MD
3. VAAP 22-2229 - BOWLES – **Approved**
Variance from Section 71.4.2 to disturb the 100' Perennial Stream Buffer and Section 71.5.2.b to disturb the expanded Nontidal Wetland Buffer for a replacement house. 3rd Election District: 23051 Brown Rd, Leonardtown, MD
4. VAAP 22-2139 - TAYLOR – **Approved**
Variance from Section 71.8.3 to disturb the Critical Area for a replacement shed.
6th Election District: 24620 Half Pone Point Rd, Hollywood, MD

February 9, 2023: 3 cases

1. VAAP 22-1643 - BOOTHE– **Approved**
Variance from Schedule 32.1 to reduce the front yard setback from 25 feet to five feet for a replacement garage.
6th Election District: 25225 Blue Heron Ln, Hollywood, MD
2. VAAP 22-1882 - WHITTLES- **Approved**
Variance from Section 71.8.3 to disturb the Critical Area for a replacement pool.
1st Election District: 49940 Elizabeth Dr, Dameron, MD
3. VAAP 22-2696 - AULDRIDGE- **Approved**
Variance from Section 51.2.4.c for a carport to be located closer than ten feet to another structure and from Schedule 32.1 Footnote 11 to reduce the side yard from 5' to 2'.
6th Election District: 26338 Cherry Ln, Hollywood, MD

March 9, 2023: 4 cases

1. VAAP 22-1699 – ABBOTT - **Approved**
Variance from Section 71.8.3 to disturb the 100' Critical Area Buffer for the expansion of an existing deck and patio.
1st Election District: 50705 Holly Point Road, Dameron, MD

2. VAAP 22-0093 - TAYLOR/YANNAYON - **Approved**
Variance from Section 71.8.3 to disturb the 100' Critical Area Buffer to replace a brick walkway and patio, culvert, and a retaining wall.
3rd Election District: 21796 Rose Bank Road, Leonardtown, MD

3. VAAP 22-1672 – RAFI - **Approved**
Variance from Section 71.8.3 to disturb the 100' Critical Area Buffer and from Section 71.5.2 to disturb the expanded non-tidal wetland buffer to construct a single-family dwelling with a detached garage.
9th Election District: 16983 Piney Point Road, Piney Point, MD

4. VAAP 22-1484- Continuance of OKONIEWSKI - **Approved (Front yard setback only)**
Variances from Section 71.8.3 to disturb the Critical Area for an after-the-fact wood ramp, from Schedule 32.1 for a reduction of the mandatory front and side setbacks for an after-the-fact shed.
8th Election District: 45834 Patuxent Ln, California, MD

April 13, 2023: 3 cases

1. VAAP 22-2676 - UPTON - **WITHDRAWN BY APPLICANTS**
Applicant is requesting a variance from Section 71.8.3 of the St. Mary's County Comprehensive Zoning Ordinance to disturb the Critical Area Buffer to install steppingstones and a lookout boulder.
6th Election District: 43202 Riverside Drive, Hollywood, MD

2. VAAP 22-1932 - ROSEHILL PROPERTIES, LLC - **Approved**
Variances from Schedule 32.1 to reduce the left side yard setback from 10 feet to zero feet to construct a boathouse and reduce the side yard setbacks from ten feet to zero feet and to construct a dwelling with a two-story deck.
2nd Election District: Tax ID 1902007800, Saint George's Park Road, Tall Timbers, MD

3. CUAP 22-0313 - SMECO RIDGE SUBSTATION - **Approved**
Conditional use approval pursuant for use type 91, Communications Tower, Commercial within the Village Center Mixed Use (VMX) zoning district and a variance from Schedule 63.3.a to modify the buffer yard planting requirements.
1st Election District: 49311 Bennett Drive, Ridge, MD

May 11, 2023: 4 cases

1. VAAP 23-0018 - 235 FARM & OUTDOOR SPORTS - **Approved**
Variance from Schedule 63.3.a to remove a portion of the 65' Type B Buffer Yard along MD Route 5 and to remove a portion of the 30' Type C Buffer Yard along the northwestern property line adjacent to a residential use property.
8th Election District: 23200 Three Notch Road, California, MD
2. VAAP 22-1297 - HANBURY - **Approved**
Variance from Section 51.2.4.c. for a detached accessory structure (gazebo) to be located closer than ten feet to another structure (pool).
7th Election District: 21581 Montfort Rd, Bushwood, MD
3. VAAP 21-1458 - CHESELDINE & DICKERSON - **Approved**
Variance from Section 71.8.3 to disturb the 100' Critical Area Buffer for a replacement house on an existing foundation.
7th Election District: 37230 Gibson Road, Bushwood, MD
4. VAAP 22-2528 - BERND - **Approved**
Variance from Section 71.8.3 to disturb the 100' Critical Area Buffer to construct a new deck and add a landing and stairs to an existing deck.
3rd Election District: 39666 Cecil Ave, Leonardtown, MD

May 25, 2023: 1 case

1. ZAAP 18-00001405 - SEVEN POINTS AGRO CULTIVATION CENTER APPEAL - **Denied**
Motion to Dismiss an appeal of the decision by the St. Mary's County Department of Land Use and Growth Management to approve an amendment to a site plan containing a revised mound septic system.
7th Election District: 21416 Abell Road, Abell, MD

June 8, 2023: 1 case

1. ZAAP 18-00001405 - SEVEN POINT AGRO CULTIVATION CENTER APPEAL - **Approved**
Joint Motion to Continue the Board of Appeals Merits Hearing to July 11, 2023, for the appeal of a decision by the St. Mary's Department of Land Use and Growth Management to allow an amendment to a site plan containing a revised mound septic system.
7th Election District: 21416 Abell Road, Abell, MD

July 11, 2023: 1 case

1. ZAAP 18-00001405 -SEVEN POINT AGRO CULTIVATION CENTER APPEAL - **Continued to October 26, 2023**

Continued from June 8, 2023, Board of Appeals Meeting; Appeal of a decision by the St. Mary's Department of Land Use and Growth Management to allow an amendment to an approved site plan containing a revised mound septic system.

7th Election District: 21416 Abell Road, Abell, MD

July 13, 2023: 4 cases

1. VAAP 23-0698 - DEL CID - **Approved**

Variance from Section 71.9.6.h to reduce the lateral line setback from 25 feet to zero feet to construct a pier.

9th Election District: 16384 Thomas Road, Piney Point, MD

2. VAAP 22-2494 - BARRETT - **Denied**

Variance from Section 41.5.3.i. to exceed the allowable lot coverage limits by 331 square feet for a driveway.

5th Election District: 29816 Adams Rd, Mechanicsville, MD

3. VAAP 23-0926 - GODDARD - **Approved**

Variance from Schedule 32.1 to reduce the front yard setback from 25 feet to 16 feet for a shed.

1st Election District: 49524 Bay Forest Road, Lexington Park, MD

4. VAAP 20-0184 - KHANNA - **Approved**

Variance from Section 71.8.3 to disturb the 100' Critical Area Buffer for a for a new residence, detached garage, breezeway, deck, and porch.

3rd Election District: 41953 Swans Court, Leonardtown, MD

August 14, 2023: 0 cases

September 14, 2023: 1 case

1. CUAP23-0047 - Loveville Mine Expansion - **Continued for September 28, 2023**

Modification of conditional use approval 15-131-050 and 20-131-0001 to expand existing mining operations for use type 82, Extractive Industry within the Rural Preservation District (RPD).

3rd Election District: 28625 Abell's Way, Loveville, MD

September 28, 2023: 1 case

1. CUAP 23-0047 - Loveville Mine Expansion - **Rescheduled for December 14, 2023**
Modification of conditional use approval 15-131-050 and 20-131-0001 to expand existing mining operations, pursuant to Chapter 25 of the Comprehensive Zoning Ordinance, for use type 82, Extractive Industry within the Rural Preservation District (RPD).
3rd Election District: 28625 Abell's Way, Loveville, MD

October 12, 2023: 3 cases

1. CUAP 23-0010 – Network Towers St. Mary’s County College – **Rescheduled for November 30, 2023**
Conditional Use approval for a communications tower and buffer yard reductions.
1st Election District: Parcels 18, 99, and 99 Mattapany Road, St. Mary’s City, MD
2. VAAP 23-1210 – Norris Property – **Approved**
Variances to disturb the non-tidal wetland buffer and for clearing more than 30% of existing vegetation to construct a dwelling.
3rd Election District: 41071 Lake & Breton View Drive, Leonardtown, MD
3. VAAP 23-1003 – Tippett Property – **Rescheduled for November 21, 2023**
Variance to disturb the 100’ Critical Area Buffer to construct a replacement dwelling.
6th Election District: 24644 Tippett Lane, Hollywood, MD

October 26, 2023: 1 case

1. ZAAP 18-00001405 – Seven Points Agro Cultivation Center Appeal – **Denied**
Continued from the 7/11/2023 Board of Appeals Meeting; Appeal of a decision by the St. Mary’s Department of Land Use and Growth Management to allow an amendment to an approved site plan containing a revised mound septic system.
7th Election District: 21416 Abell Road, Abell, MD

November 9, 2023: 4 cases

1. VAAP 23-1158 – WILLIAMS – **Approved**
Variance from 71.9.6.h to encroach on the southern extended property lateral line setback to add a boat lift to replacement in kind pier.
6th Election District: 24380 Half Pone Point Road, Hollywood, MD
2. VAAP 23-1158 – Gahl – **Approved**
Variance Section 71.5.2.b to disturb the non-tidal wetland buffer to construct a 24’ x 28’ deck.
2nd Election District: 45954 Burns Drive, Valley Lee, MD

3. VAAP 23-1031 – Farrell (Pumphrey) - **Approved**
Variance Section 72.3.1.c(2) for clearing more than 30% of the existing forest cover to construct a house.
5th Election District: 29939 Barger Drive, Mechanicsville, MD
4. VAAP 23-1084 - Moore & Schulmeyer – **Approved**
Variance Section 71.5.2.b to disturb the expanded non-tidal wetland buffer and Section 71.8.3 to disturb the expanded Critical Area Buffer to construct a house and driveway.
1st Election District: Bay Forest Road, Lexington Park, MD

November 21, 2023: **1 case**

1. VAAP 23-1003 – Tippett – **Approved**
Variance from Section 71.8.3 to disturb the 100' Critical Area Buffer to construct a single-family dwelling.
6th Election District: 24644 Tippett Lane, Hollywood, MD

December 14, 2023: **4 cases**

1. VAAP 23-0176 – Cedar Cove Marina – **Withdrawn by Applicant**
Critical Area variance to construct a home with a marina office.
3rd Election District: 78623 Cedar Cove Lane, Valley Lee, MD
2. CUAP 23-0047– Loveville Mine Expansion - **Approved**
Modification of a previous conditional use approval to expand mining operations.
3rd Election District: 28625 Abell's Way, Loveville, MD
3. VAAP 23-0230 – Drove Collision – **Approved**
Variances to required buffer yard and parking spaces for a vehicle collision center.
5th Election District: 28895 Three Notch Road, Mechanicsville, MD
4. VAAP 23-0152– Pax River Village Center - **Approved**
Variances to required buffer yards and the 20% planting requirement for shopping center revitalization.
3rd Election District: 28625 Abell's Way, Loveville, MD