

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

**VAAP NUMBER 25-0350**

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**DENNIS POINT MARINA**

**NINTH ELECTION DISTRICT**

**DATE HEARD: MARCH 12, 2026**

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**ORDERED BY:**

**Mr. Hayden, Mr. Brown  
Mr. LaRocco, Mr. Payne, and Ms. Weaver**

**ENVIRONMENTAL PLANNER: DULA WERETI**

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**DATE SIGNED: April 23, 2026**

### **The Variance Requested**

Dennis Point Holdings, LLC (“Applicant”) seeks a variance (VAAP # 25-0350) from St. Mary’s County Comprehensive Zoning Ordinance (“CZO”) § 71.8.3.b(1) to disturb the 100’ Critical Area Buffer to replace an existing trailer with a new building.

### **Public Notification**

The hearing notice was advertised in *The Southern Maryland News*, a newspaper of general circulation in St. Mary’s County, on February 20 and February 27, 2026. Required mailings to neighbors and physical posting of the property were completed by February 25, 2026. The agenda was also posted on the County’s website on or before Wednesday, March 4, 2026. Therefore, the Board finds and concludes there has been compliance with the notice requirements.

### **Public Hearing**

A public hearing was conducted at 6:30 p.m. on March 12, 2026 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**

Applicant owns real property situate 46555 Dennis Point Way, Drayden, Maryland (“the Property”). The Property consists of 182.15 acres, more or less. The Property is partially zoned Rural Preservation District (“RPD”) and partially zoned Commercial Marine (“CM”). Portions of the Property are subject to Limited Development Area (“LDA”) and Resource Conservation Area (“RCA”) Critical Area overlays. The Property and can be found among the Tax Maps of St. Mary’s County at Tax Map 66, Grid 21, Parcel 63.

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

CZO § 71.8.3 requires there be a minimum 100-foot buffer landward from the mean high-water line of tidal waters, tributary streams, and tidal wetlands. No new impervious surfaces or development activities are permitted in the 100-foot buffer unless an applicant obtains a variance. CZO § 71.8.3(b)(1)(c).

### **Staff Testimony**

Stacy Clements, an Environmental Planner for the St. Mary's County Department of Land Use and Growth Management ("LUGM"), presented a slideshow that summarized the variance request. A staff report prepared by Dula Wereti, an Environmental Planner at LUGM, was also entered into the record. Testimony and evidence adduced by staff included, but was not limited to, the following items:

- The Property was recorded in the Land Records of St. Mary's County, per Plat Book 82, Page 72, on December 10, 2024, after the adoption of the Maryland Critical Area program on December 1, 1985.
- The Property is a 182.15-acre lot located on Dennis Point Way, Drayden, and sits adjacent to the tidal waters of Carthagena Creek. The Property is impacted by the Critical Area Buffer.
- The site plan proposes to replace an existing trailer with a new building to be used as storage and a rental building for kayaks, paddle boats, row boats, and peddle boats impacting the 100-foot Critical Area Buffer. The proposal would result in 1,248 square feet of new lot coverage in the Buffer.
- If approved, mitigation would be required at a ratio of 3:1 for the variance and 1:1 for canopy removal. A planting agreement and plan would be required prior to the issuance

of any building permit.

- The Critical Area Commission responded on February 9, 2026. The Commission opposes the application stating the proposed facility does not meet the definition of water-dependent facilities as defined in the CZO. The Commission’s letter also states the Applicant fails to satisfy the standards for a Critical Area variance, including a statement that “the project has a clear and practicable alternative that would avoid Buffer impacts and negate the need for the variance whereby meeting the intent of the Critical Area Program.”
- Departments that have reviewed/approved the project are the Department of Economic Development, Maryland Department of Natural Resources, Fire Board, and Maryland Department of the Environment.
- Departments and agencies that have returned comments are Addressing, St. Mary’s County Health Department, Department of Land Use & Growth Management, and the St. Mary’s County Soil Conservation District.
- In response to a question from Ms. Weaver related to the plat’s recording date, Ms. Clements testified that the plat recorded in 2024 was a Boundary Line Adjustment Plat. She also stated, in the same conversation, that St. Mary’s County’s CZO does not permit in-kind replacement in the Buffer by right.
- The following Attachments to the Staff Report were introduced:
  - Attachment 1: Critical Area Standards Letter
  - Attachment 2: Plat Book 82, Page 72
  - Attachment 3: Critical Area Map
  - Attachment 4: Site Plan
  - Attachment 5: Location Map

- Attachment 6: Land Use Map
- Attachment 7: Zoning Map
- Attachment 8: Existing Conditions Map
- Attachment 9: Critical Area Commission Response

**Applicant's Testimony and Exhibits**

Applicant was represented before the Board by Steve Vaughn, of Little Silence's Rest, Inc., and Chris Longmore, of Dugan McKissick & Longmore, LLC. Mr. Vaughn is a licensed surveyor, and Mr. Longmore is an attorney admitted to practice in Maryland. Mr. Vaughn presented a slide show that included maps, pictures of the property, and other information pertinent to the application. Particular testimony Mr. Vaughn and Mr. Longmore presented included, but was not limited to, the following items:

- The Applicant confirmed the equipment would be for rentals only, and not sales. In response to a question posed by Mr. Brown about an aged clientele's ability to physically transport the equipment to the water, Mr. Vaughn confirmed that the customers would have to pick up and carry the kayak or other equipment, and that relocating the new structure in roughly the same location would hamper access.
- Mr. Vaughn also noted the marina is "active" and has boat launches. A road passes near the existing trailer. He stated that moving the new structure further back could interfere with this vehicular traffic through the marina.
- Mr. Vaughn said the existing trailer and structure, together, are 1,096 square feet. The new replacement structure is 1,152 square feet. It will be no closer to the water than the existing trailer. The additional proposed square footage results from a proposed sidewalk.
- When asked by the Chair whether the Applicant considered moving the proposed

replacement structure further outside the Buffer, but still on the same side of the existing road, Mr. Vaughn said that doing so would interfere with existing trees and an existing septic system. He included that the Applicant intends to abandon the septic system, but would prefer not to build over to avoid settling.

- Mr. Longmore noted that there is “nothing preventing the Applicant from leaving the trailer there and using it for some other use and then putting a kayak building back there and adding even more lot coverage within the 1,000 feet.”
- Testimony was also given that the modern construction and stormwater management techniques that would accompany the new building would likely have a lesser net environmental impact than maintaining the existing trailer.
- Mr. Vaughn provided examples of “similar facilities” in his presentation: a boat house at St. Mary’s College and a kayak rental facility at Point Lookout State Park. He claimed the storage for the kayak rental at Point Lookout State Park also lies within the Buffer. He also said that other marinas in the county, such as Point Lookout Marina and Colton’s Point Marina, offer kayak rentals.

### **Public Testimony**

No members of the public appeared to offer in-person testimony for or against the project.

Written comment was received from the following:

- *Pat & Ashley Wathen, Drayden, MD*
  - Pat and Ashley Wathen encouraged the Board to vote to approve the variance. They stated the new recreation / kayak rental center would be “of significant benefit to both the guests at Dennis Point and the general public.” The two operate Capt. Pat’s Restaurant at Dennis Point, and say they know

the Applicant's owners to be "responsible operators."

- *Daniel Horwath, No Address Given*
  - Mr. Horwath wrote to express his "strong support" for approval of the variance. He said the replacement is "overdue" and promised to deliver "substantial benefits" to guests and the general public.
- *Woody Meinhardt, Drayden, MD*
  - Mr. Meinhardt described himself as a neighbor who lives on Cartagena Creek. He supported the requested variance.
- *Reg & Jetty Townsend, Drayden, MD*
  - Mr. and Mrs. Townsend are additional neighbors of the Applicant. They encouraged the Board to approve the variance, and wrote a letter substantially similar to that of Mr. and Mrs. Wathen.
- *Ron James / Barnyard Ventures, LLC, Mechanicsville, MD*
  - Mr. Jameson encouraged the Board to approve the variance, and wrote a letter substantially similar to that of Mr. and Mrs. Wathen.
- *Charles Young, Drayden, MD*
  - Mr. Young identified his family as the owners of Wind Mill Point Farm, adjacent to the Marina. He said he has personal experience with the Applicant and its operators and believes them to be responsible and concerned about their potential impacts on the land. He supported the variance request and encouraged the Board to approve.

**Critical Area Commission Letter**

The Critical Area Commission submitted a response letter dated February 9, 2026. It

opposes the variance request. The letter, which was included in the record and reviewed in full by the Board, stated, among other things, that there is a “clear and practicable alternative” that would avoid any Buffer impacts and negate the need for the variance, and that there is no “site-specific functional need to place the non-water dependent building in the Buffer.” The letter also contained argument that the Applicant failed to satisfy the variance standards of unwarranted hardship, special privilege, impact on the environment, and harmony with the general spirit and intent of the Critical Area program.

### **Decision**

#### **Requirements for Critical Area Variances**

COMAR 27.01.12.04 requires an applicant to meet each of the following standards before a Critical Area variance may be granted:

- (1) Due to special features of the site or special conditions or circumstances peculiar to the applicant’s land or structure, a literal enforcement of the local Critical Area program would result in an unwarranted hardship to the applicant;
- (2) A literal interpretation of the local Critical Area program would deprive the applicant of a use of land or a structure permitted to others in accordance with the provisions of the local Critical Area program;
- (3) The granting of the variance would not confer upon the applicant any special privilege that would be denied by the local Critical Area program to other lands or structures in accordance with the provisions of the local Critical Area program;
- (4) The variance request is not based upon conditions or circumstances that are the result of actions by the applicant;
- (5) The variance request does not arise from any conforming or nonconforming condition on any neighboring property;
- (6) The granting of the variance would not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction’s local Critical Area; and,
- (7) The granting of the variance would be in harmony with the general spirit and

intent of the Critical Area law, the regulations in this subtitle, and the local Critical Area program.

Additionally, the Maryland Code Annotated, Natural Resources Article, §8-1808(d)(2)(ii) requires an applicant to overcome the presumption that the variance request should be denied.

#### Findings - Critical Area Variance

Upon review of the facts and circumstances of this matter, the Board finds and concludes the Applicant is entitled to relief from the St. Mary's County Comprehensive Zoning Ordinance.

First, the Board finds that denying the Applicant's request would constitute an unwarranted hardship. In *Assateague Coastal Trust, Inc. v. Roy T. Schwalbach*, 448 Md. 112 (2016), stated "unwarranted hardship" to mean the following:

[I]n order to establish an unwarranted hardship, the applicant has the burden of demonstrating that, without a variance, the applicant would be denied a use of the property that is both significant and reasonable. In addition, the applicant has the burden of showing that such a use cannot be accomplished elsewhere on the property without a variance.

*Id.* at 139.

Here, the Applicant seeks to maintain a kayak rental facility within the Buffer, a supporting use to the greater marina facility the kayak rental is located within. Presently, that use operates out of a dilapidated trailer within the Buffer. Pictures provided by Applicant confirm the state of the trailer. There are no serious grounds to contest the reasonableness of the use or the propriety of replacing the trailer with a modern replacement; the main question lies in whether the use must be carried on in the same location or moved approximately 100 feet eastwards. Testimony was given why relocating the new structure outside the Buffer would be self-defeating: existing site constraints limit development and the prospect of hauling equipment an additional 100 feet would

impose physical demands and hardship on the kayak's clientele.<sup>1</sup> Accordingly, we find the Applicant has demonstrated an unwarranted hardship: a reasonable and significant use is proposed, and the Applicant has met its burden of proof to demonstrate it cannot be achieved outside the Buffer.

Second, denying the variance would deprive the Applicant of rights commonly enjoyed by other similarly situated property owners. Applicant testified that kayak rentals are common features in other marinas in St. Mary's County, and the physical structure that will house this particular kayak rental appears to be of unexceptional build and character. It will not locate any closer to the water than the existing, grandfathered trailer.

Third, granting a variance will not confer a special privilege upon the Applicant. The right to ask for variances from the Critical Area program's strictures is required by law. Applicant's proposal has been subjected to a public hearing, held to the required standards, includes all required mitigation plantings, environmental considerations, and conforms to the greatest extent it can to all applicable regulations. Applicant carries a high burden of proof to meet before a variance can be granted. The Board cannot locate any definition of "special privilege" in statute or precedent to suggest that one has been conferred when an applicant, in compliance with the procedural requirements noted above, meets his or her demanding burden.

Fourth, the need for the variance does not arise from the actions of the Applicant or its predecessors in title. The Applicant is constrained by the natural features of the site. They have not contributed to the hardship by any affirmative action of their own.

Fifth, there is no suggestion in the record that the need for a variance arises from any nonconforming feature on either the Property or a neighboring property. The need for a variance

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<sup>1</sup> Given the Applicant has chosen to submit this as a variance request, and not a request for a determination the kayak rental is a water-dependent facility, we will assume *arguendo* the use is non-water dependent.

arises solely from difficulties present on the Property itself.

Sixth, granting the requested variance will not adversely affect the environment. The Applicant will be required to mitigate the proposed development with an approved planting plan. The plantings are intended to offset any negative effects and provide improvements to water quality along with wildlife and plant habitat. The required plantings will improve plant diversity and habitat value for the site and will improve the runoff characteristics for the Property, all of which should contribute to improved infiltration and reduction of non-point source pollution leaving the site. These plantings would not be required unless the variance is granted. The new structure will not be located any closer to the water than the existing trailer it will replace. Applicant's evidence pointed out that modern construction techniques and stormwater management would likely yield better environmental management than maintaining the existing dilapidated trailer in its present state – which Applicant would be entitled to do, as Applicant's counsel pointed out.

Finally, the Board finds, overall, that granting the variance is in the spirit of the Critical Area program. Applicant has availed themselves of their right to seek a variance and presented a site plan that identifies a reasonable and significant use that cannot be accomplished without intrusion into the Buffer. That intrusion has been minimized to the greatest extent practicable, and Applicant has been as sensitive to Critical Area's programs goals as may be reasonably expected. The replacement structure will be a more environmentally sound design than what precedes it. It will allow Applicant to continue offering recreational amenities to marina guests and allow its patrons to make fuller use of the recreational opportunities that come from the water. As concerns the requested variance, we conclude the goals and spirit of the Critical Area are furthered by this proposal.

By satisfying these standards the Applicant has also overcome the presumption in § 8-1808(d)(2)(ii) of the Natural Resources Article that the variance request should be denied.

For the above reasons, we find the requested variance should be granted.

**ORDER**

**PURSUANT** to Applicant's request for a variance from Comprehensive Zoning Ordinance § 71.8.3 to disturb the 100' Critical Area Buffer to replace an existing trailer with a new building for the storage and rental of kayaks, paddle boards, rowboats, and pedal boats; and,

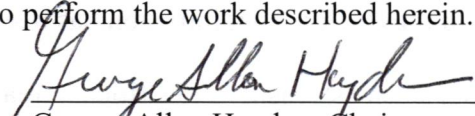
**PURSUANT** to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is,

**ORDERED**, by the St. Mary's County Board of Appeals, pursuant to Comprehensive Zoning Ordinance § 24.3, that the Applicant be granted the foregoing variance request.

The foregoing variances are subject to the condition that the Applicant shall comply with any instructions and necessary approvals from the Office of Land Use and Growth Management, the Health Department, and the Critical Area Commission.

This Order does not constitute a building permit. In order for the Applicant to construct the structures permitted in this decision, she must apply for and obtain the necessary building permits, along with any other approvals required to perform the work described herein.

Date: April 23, 2026

  
George Allan Hayden, Chairman

Those voting to grant the variance: Mr. Hayden, Mr. Brown, Mr. LaRocco and Ms. Weaver

Those voting to deny the variance: Mr. Payne

Approved as to form and legal sufficiency

  
John Sterling Houser, Substitute Counsel to the Board of Appeals

### **NOTICE TO APPLICANT**

Within thirty days from the date of this Decision, any person, firm, corporation, or governmental agency having an interest therein and aggrieved thereby may file a Petition for Judicial Review with the Circuit Court for St. Mary's County within thirty (30) days of the date this order is signed. St. Mary's County may not issue a permit for the requested activity until the 30-day appeal period has elapsed.

Further, St. Mary's County Comprehensive Zoning Ordinance § 24.8 provides that a variance shall lapse one year from the date the Board of Appeals granted the variance unless: (1) A zoning or building permit is in effect, the land is being used as contemplated in the variance, or regular progress toward completion of the use or structure contemplated in the variance has taken place in accordance with plans for which the variance was granted; (2) a longer period for validity is established by the Board of Appeals; or (3) the variance is for future installation or replacement of utilities at the time such installation becomes necessary.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this Order; otherwise, they will be discarded.