

IN THE ST. MARY'S COUNTY BOARD OF APPEALS

VAAP NUMBER 23-0267

EVERGREEN DISPOSAL

FIFTH ELECTION DISTRICT

DATE HEARD: AUGUST 28, 2025

ORDERED BY:

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

PLANNER: SIANLI BLASCO

DATE SIGNED: October 9, 2025

Pleadings

LODYMAWA, LLC (“Applicant”) seeks a variance (VAAP # 23-0267) from St. Mary’s County Comprehensive Zoning Ordinance (“CZO”) § 51.3.96.a(3)(b) to place their use within 1,500 horizontal feet of a home or institutional building and from CZO § 51.3.96.a(7) to place their use on a road with a lower designation than major collector.

Public Notification

The hearing notice was advertised in *The Southern Maryland News*, a newspaper of general circulation in St. Mary’s County, on August 8 and August 15, 2025. A physical posting was made on the property and all property owners within 200’ were notified by certified mail on or before August 13, 2025. The agenda was also posted on the County’s website on or before Friday, August 22, 2025. Therefore, the Board of Appeals (“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 August 28, 2025 at the St. Mary’s County Governmental Center, 41770 Baldrige Street, Leonardtown, Maryland. All persons desiring to be heard were duly sworn, the proceedings were recorded electronically, and the following was presented about the proposed amendment requested by the Applicants.

The Property

Applicant owns real property situate 37315 Carpenter Lane, Charlotte Hall, MD 20622 (“the Property”). The Property consists of 8.04 acres, more or less, is within the Industrial (“TMX”) zoning district and can be found among the Tax Maps of St. Mary’s County at Tax Map 4, Grid 10, Parcel 491.

The Variance Requested

Applicant seeks a variance from CZO § 51.3.96.a(3)(b) to place their use within 1,500 horizontal feet of a home or institutional building and from CZO § 51.3.96.a(7) to place their use on a road with a lower designation than major collector.

The St. Mary's County Comprehensive Zoning Ordinance

There are several specific standards applicable to Use Type 96 – Solid Waste Acceptance, Processing, Transfer and/or Resource Recovery Facility. Among them, CZO § 51.3.96.a(3)(b) requires a proposed facility to have a horizontal distance of 1,500 feet from the nearest home or institutional building. CZO Section 51.3.96.a(7) requires that solid waste or resource recovery facilities shall have a commercial entrance and be located on a road with a designated major collector or higher classification.

Staff Testimony

Sianli Blasco, a Planner for the St. Mary's County Department of Land Use and Growth Management ("LUGM"), presented a staff report and slideshow presentation that included the following testimony:

- The subject property (hereinafter the "Property") area is 8.04 acres in size, according to the Maryland Department of Assessments and Taxation. The Property is a vacant industrial parcel located on Carpenter Lane.
- The proposal is to develop a solid waste disposal facility (Use #96, Solid Waste Acceptance, Processing, Transfer and/or Resource Recovery Facility) that does not include hazardous waste disposal facility (Attachment 5)
- The Maryland State Highway Administration and the Department of Natural Resources Wildlife and Heritage Service, the St. Mary's County Health Department, the Department

of Public Works & Transportation, the St. Mary's County Metropolitan Commission, Soil Conservation District and Maryland Department of Environment have no objection to the site plan. The Department of Land Use and Growth Management approval is pending the outcome of this hearing.

- CZO Section 51.3.96.a.(3)(b) General Standards, states: New facilities shall be horizontally located 1,500 feet from the nearest home / institutional building.
- The applicant is requesting variance approval for a reduced horizontal distance to nearest home from 1,500 feet to 889 feet (29764 Three Notch Rd. Charlotte Hall, MD), and to 1,031 feet (29692 Three Notch Rd. Charlotte Hall, MD) (Attachment 4).
- CZO Section 51.3.96.a.(7) General Standards: Solid waste or resource recovery facilities shall have commercial entrance and be located on a road with designated major collector or higher classification.
- A minor collector road is a public road that generally serves multiple neighborhoods, linking them to major collector roads or arterials.
- During her presentation, Ms. Blasco stated nearby properties were served by public water, not private wells.
- The following Attachments to the Staff Report were introduced:
 - Attachment 1: Location Map
 - Attachment 2: Land Use Map
 - Attachment 3: Zoning Map
 - Attachment 4: Horizontal Distance Map
 - Attachment 5: Site Plan
 - Attachment 6: Standards Letter

Applicant Testimony and Exhibits

Applicant was represented before the Christopher T. Longmore of Dugan, Esq., McKissick & Longmore, LLC, Staci Lagana of Lorenzi, Dodd & Gunnill, Inc., Mike Lenhart, of Lenhart Traffic Consulting, and Larry Foster, a representative of the applicant itself. Included among the testimony offered was the following:

- The proposed use is a public need within the County, as stated in the County's Comprehensive Solid Waste Management and Recycling Plan at Section 5.2.12, which explicitly recommends the development of a "newly constructed, privately owned and funded solid waste transfer station location in Charlotte Hall, MD."
- The applicant submitted a traffic study that indicates surrounding intersections will operate at an acceptable level of service.
- Carpenter Lane was designed as a private right of way to access six industrial lots, and the proposed use will occupy three of the six lots. Its travel width varies from 21 to 22 feet, and a major collector's minimum requirement is 22 feet.
- In applicant's standards letters, applicant stated that nearby "residential homes are buffered by significant wooded areas and Killpeck Creek," and that "due to the existing on-site conditions and natural buffers, coupled with all operations being conducted inside the transfer station building, the proposed use will have no negative effects on the properties subject to this variance request."
- Neither homeowner affected by the 1,500 feet setback responded to letters sent by Applicant.

Public Testimony

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

Decision

County Requirements for Granting Standard Variances

The St. Mary's County Comprehensive Zoning Ordinance § 24.3 sets forth seven separate requirements that must be met for a variance to be issued:

- (1) Because of particular physical surroundings such as exceptional narrowness, shallowness, size, shape, or topographical conditions of the property involved, strict enforcement of this 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. It is understood that any development necessarily increases property value, and that alone shall not constitute an exclusive finding;
- (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; and
- (7) The variance complies, as nearly as possible, with the spirit, intent, and purpose of the Comprehensive Plan.

Id.

Findings – Standard Variance Requirements

Upon review of the facts and circumstances, the Board finds and concludes that the Applicant is entitled to relief from the St. Mary's County Comprehensive Zoning Ordinance's front yard setback provision.

First, the Board finds that strictly interpreting the CZO would result in a practical difficulty to the Applicant due to the particular physical surroundings of the Property. § 24.3(1). In *McLean v. Soley*, 270 Md. 208 (1973), the Maryland Court of Appeals established the standard by which a zoning board is to review "practical difficulty" when determining whether to grant a variance:

1. Whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.
2. Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.
3. Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Id. at 214–15.

Denial of this variance would impose a practical difficulty upon Applicant. One overarching theme of the Applicant's presentation – and our own discussions – was the sheer breadth of facility types included within Use Type 96's definition. It encompasses all manner of waste processing facilities. The variances sought are departures from standards which do not

differentiate between incinerators, landfills, processing facilities, transfer stations, and recycling centers. Assuming the proposed use before us tonight would have the same impact upon neighboring properties as an incinerator strains reason. The testimony before the Board – including the evidence presented concerning the use’s operating hours, the type and quantity of vehicle trips it will be engender, the natural vegetative buffers between the use and the adjacent residential and institutional properties – is more than ample to persuade the Board that strict application of the setbacks and roadway standards is unreasonable and that justice can be done in spite of their relaxation.

To the second standard, the conditions creating the difficulty are not generally applicable to other similarly situated properties. Testimony highlighted Carpenter Lane’s relatively anomalous background and characteristics, and the Property is atypically isolated and buffered from its neighboring properties.

To the third standard, the purpose of seeking the variance is not “based exclusively upon reasons of convenience, profit or caprice.” Applicant has demonstrated practical difficulties meeting the setback and road classification standards for which variances are sought. The need for those variances cannot be cured by directing Applicant to modify the proposed use or its configuration on the Property without materially compromising the proposed use’s feasibility – if such modification could even be achieved at all.

Fourth, the need for the variance does not arise from actions of the Applicant. As noted previously, Applicant’s need for a variance stem from the Property and its neighbors.

Fifth, the variance will neither detrimentally affect the public welfare, substantially injure other properties or improvements, nor change the character of the district. The neighboring property owners were notified of the variance request and given an opportunity to speak on the

matter. None voiced an objection. The site plan, and pictures of the site, were reviewed by the Board of Appeals and do not appear objectionable on their own. The proposed use, including the needed variances, was presented to the Planning Commission and approved unanimously. And we find nothing before us to suggest, independently, concern that approval of the requested variances will diminish the public welfare. The natural, existing buffers between the proposed use and adjacent residential properties appear to be more than adequate, and Carpenter Lane appears able to meet the demands that will be placed upon it.

Sixth, the proposed development will not increase the residential use of the property.

Finally, the Board finds that granting the variance will be in harmony with the general spirit, intent, and purpose of the Comprehensive Plan. The Applicant pointed out that a use such as the pending proposal is specifically encouraged by the County's long-term, strategic plan for waste management. The proposal is, on the whole, consistent with the nature and intent of its underlying zoning category, and its projected impacts, such as they are, are of similar stripe as those impacts which may reasonably be expected in these areas.

For the foregoing reasons, we conclude the Applicant has carried its burden and presented sufficient evidence to warrant granting the requested variances.

ORDER

PURSUANT to Applicant's request for a variance from Comprehensive Zoning Ordinance Comprehensive Zoning Ordinance § 51.3.96.a(3)(b) to place their use within 1,500 horizontal feet of a home or institutional building and from Comprehensive Zoning Ordinance § 51.3.96.a(7) to place their use on a road with a lower designation than major collector; and,

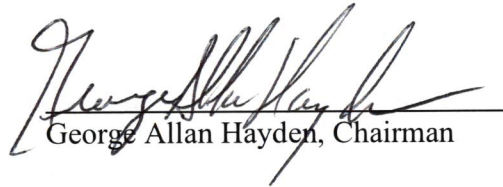
PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is,

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

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, they must apply for and obtain the necessary building permits, along with any other approvals required to perform the work described herein.

Date: October 9, 2025

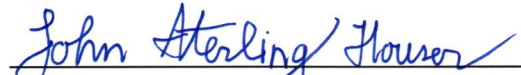

George Allan Hayden, Chairman

Those voting to grant the variance:

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

Those voting to deny the variance:

Approved as to form and legal sufficiency


John Sterling Houser, Deputy County Attorney
Counsel to the Board for Matter VAAP 23-0267

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.

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.