

IN THE ST. MARY'S COUNTY BOARD OF APPEALS

VAAP NUMBER 24-1444

FAIRGRIEVE PROPERTY

THIRD ELECTION DISTRICT

DATE HEARD: October 10, 2024

ORDERED BY:

**Mr. Hayden, Mr. Loughran,
Mr. Payne, Mr. Richardson and Ms. Weaver**

ENVIRONMENTAL PLANNER: STACY CLEMENTS

DATE SIGNED: November 14, 2024

subdivision.

The Variance Requested

Applicants seek a variance from St. Mary’s County Comprehensive Zoning Ordinance (“CZO”) Schedule 32.1 for a reduction of the mandatory front yard setback from 25’ to 17’.

The St. Mary’s County Comprehensive Zoning Ordinance

Schedule 32.1 requires a 25’ front yard setback on any parcel bordering a Minor Collector or lessor public right of way.

Staff Testimony

Stacy Clements, an Environmental Planner for the St. Mary’s County Department of Land Use and Growth Management (“LUGM”), presented the following evidence:

- The subject property (Property) contains a single-family dwelling (principal structure) and the shed. According to the Department of Assessments and Taxation, the house was constructed in 1999.
- The Applicant is proposing a 7’ X 33’ front porch addition onto an existing home.
- The site plan is approved by the Health Department. It is exempt from Stormwater Management and Soil Conservation standards as it proposes less than 5,000 sf of soil disturbance. Land Use and Growth Management requires the setback variance to approve the permit.
- The following Attachments to the Staff Report were introduced:
 - #1: Standards Letter;
 - #2: Site Plan;
 - #3: Ordinance 2019-32 SMC Comprehensive Zoning;
 - #4: Location Map;

#5: Land Use Map; and,

#6: Zoning Map.

Applicant Testimony and Exhibits

Applicants were represented before the Board by Ralph Suit. Mr. Suit presented a slideshow depicting the site plan, photos of their home and existing shed, overhead maps from the County's GIS service. The Applicants' testimony included the following points:

- The entire area of square footage to be added will be 15 square feet.
- The construction will be built over the building restriction line.
- The Applicants do not believe the variance will have any effect on other properties or diminish neighboring property values.
- The porch will accentuate the curb appeal of the existing home.
- The variance will not increase traffic or pose any danger to public safety.
- The alleged difficulty was not created by the property owners but is due to the exceptional narrowness of the property configuration.
- Neighbors have called the applicants to state that "they don't care what another homeowner wants to do to their home."

Public Testimony

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

Decision

County Requirements for Granting 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 in the form of the requested variances.

First, the Board finds that strictly interpreting the CZO would result in practical difficulty