

IN THE ST. MARY'S COUNTY BOARD OF APPEALS

VAAP NUMBER 24-1718

GARDNER PROPERTY

EIGHTH ELECTION DISTRICT

DATE HEARD: DECEMBER 12, 2024

ORDERED BY:

**Mr. Bradley, Mr. Loughran,
Mr. Payne, and Mr. Richardson**

ENVIRONMENTAL PLANNER: STACY CLEMENTS

DATE SIGNED: January 9, 2025

Pleadings

Gregory Gardner and Richard M. Gardner (“Applicants”) seek a variance (VAAP # 24-1718) from the St. Mary’s County Comprehensive Zoning Ordinance (“CZO”) Section 71.8.3 to disturb the Critical Area Buffer to construct a covered front porch.

Public Notification

The hearing notice was advertised in *The Southern Maryland News*, a newspaper of general circulation in St. Mary’s County, on November 22, 2024 and November 29, 2024. The hearing notice was posted on the property by November 27, 2024. The file contains the certification of mailing to all adjoining landowners, even those located across a street. Each person designated in the application as owning land that is located within two hundred feet of the subject property was notified by mail, sent to the address furnished with the application. The agenda was also posted on the County’s website on Friday, December 6, 2024. Therefore, the 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 December 12, 2024 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 Applicants.

The Property

Applicants own real property situate 23704 Kingston Creek Road, California, MD (“the Subject Property”). The Subject Property consists of 2.34 acres, more or less, is in the Residential, Low-Density zoning district (“RL”), lies within a Limited Development Area (“LDA”) Critical

Area overlay, and is identified at Tax Map 35, Grid 7, Parcel 58.

The Variance Requested

Applicants seek a variance from St. Mary's County Comprehensive Zoning Ordinance ("CZO") Section 71.8.3 to disturb the expanded Critical Area Buffer to construct covered front porch.

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). Moreover, the Buffer is to be expanded in the presence of highly erodible soils and steep slopes.

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 Property contains a single-family dwelling with an attached deck and porch. According to the Department of Assessments and Taxation, the house was constructed in 1981, prior to the adoption of the Maryland Critical Area Program on December 1, 1985.
- The Property is a 2.34- acre parcel located on Kinston Creek Road in California and is adjacent to the tidal waters of the Kinston Creek.
- The Critical Area Buffer (the "Buffer") is established a minimum of 100-feet landward from the mean high-water line of tidal waters (CZO 71.8.3) and is expanded for the presence of highly erodible soils and steep slopes. Therefore, the Property is constrained by the expanded Buffer. (Attachment 2).