

IN THE ST. MARY'S COUNTY BOARD OF APPEALS

VAAP NUMBER 25-0103

MARTINEZ MACHINE SHOP

FIFTH ELECTION DISTRICT

VARIANCE REQUEST HEARD: OCTOBER 9, 2025

ORDERED BY:

**George Allan Hayden, Chair
John Brown, Vice Chair
Ronald Payne, Sr., Member**

PLANNER: SIANLI BLASCO

DATE SIGNED: October 23, 2025

Pleadings

Marcelino Martinez (hereinafter “Applicant”) seeks a variance from the St. Mary’s County Comprehensive Zoning Ordinance (hereinafter “CZO”), specifically Section 63.3, to remove the required 65’ “B” type Buffer Yard along certain property lines.

Public Notification

The hearing notice was advertised in the *Southern Maryland News*, a newspaper of general circulation in St. Mary’s County, on September 19 and September 26, 2025. A physical posting was made on the property, and all property owners within 200 feet were notified by certified mail, on or before September 24, 2025. The Agenda was also posted on the County’s website by Friday, September 26, 2025. Therefore, the Board of Appeals (hereinafter “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 October 9, 2025, at the St. Mary’s County Governmental Center, located at 41770 Baldrige Street, Leonardtown, Maryland. All persons desiring to be heard were duly sworn and the proceedings were electronically recorded.

The Property

The subject property is situate 29745 Three Notch Road, Charlotte Hall, MD 20622 (hereinafter “the Property”). Per SDAT, it is 9,109 square feet, more or less. It is zoned Residential Mixed-Use (“RMX”). The Property can be found at Tax Map 4, Grid 4, Parcel 239.

The Variance Requested

Applicants seek a variance from CZO Section 63.3 to remove the required 65’ “B” type Buffer Yard along the property lines adjacent to Parcel 239, Tract 1 and Parcel 84.

St. Mary's County Comprehensive Zoning Ordinance

Section 63.3 contains requirements and standards for bufferyards between proposed and existing uses. Schedule 63.3.b provides what level of bufferyard is required in a given instance between proposed and adjoining uses. Schedule 63.3.a and its accompanying illustration provide the standards and technical requirements of each required bufferyard. In the instant case, a high-intensity residential use, as proposed by the project, must provide a Type-B bufferyard against an adjoining low-intensity residential use, as already exists on Parcel 178, Lot 1. Type-B bufferyards must be 65' deep and provide 4 canopy trees, 5 understory trees, 22 shrubs, and 11 evergreens/conifers per each 100' of width, although no fence or other structure is required to be installed.

Departmental Testimony and Exhibits

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

- 1. The subject property (hereinafter the "Property") area is 9,109 square feet (S.F.) in size with an existing 2,253 S.F. building that was constructed in 1962, according to the Maryland Department of Assessments and Taxation.
- The Applicant is proposing a Maintenance and Repair Service, Minor (Commercial Use #58) in an existing Roadside Stand (Agricultural Use #8) located on the property. A change of use from agricultural use to commercial use requires a Concept Site Plan. During the review process it was determined that the application needed a variance from the buffer yard standards of CZO Section 63.3.

- The Maryland State Highway Administration, 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 Concept Site Plan. The Department of Land Use and Growth Management approval on the Concept Site Plan is pending the outcome of this hearing.
- Section 63.3. Buffer Yard Requirements: According to CZO Schedule 50.4, the proposed use 58 – Maintenance and Repair Service, Minor is considered a Low Intensity Commercial Use Classification. Per Schedule 63.3.b, Buffer Yard Requirements, this use requires a 65' Type B buffer yard when adjoining a lot/parcel with a residential use. The Applicant has made an application to the Board of Appeals for a variance to remove the buffers. (Attachment 5).
- No bufferyard would be required adjacent to property TAX ID: 05-037298, which has an established (albeit vacant) commercial use, and Type-B buffers would be required adjacent to properties TAX ID: 05-067545 and TAX ID: 05-026709, which both have existing residential uses.
- Attachments to the Staff Report, including:
 - #1: Location Map;
 - #2: Land Use Map;
 - #3: Zoning Map;
 - #4: Wetlands & Soils Map; and,
 - #5: Standards Letter

Applicant's Testimony and Exhibits

Applicant was represented before the Board by Steve Vaughn, a licensed surveyor with Little Silence's Rest, Inc. Mr. Vaughn presented a slideshow that included maps and photos of the site, as well as the proposed site plan. His presentation included the following:

- The proposed use will be for a "small engine repair or small appliance repair shop."
- A produce stand previously operated on the Property.
- The properties against which the Type-B buffer yards are required are both owned by Applicant.
- Some plantings will be made on the property to meet landscaping requirements, but there is insufficient space for full bufferyards.

Public Testimony

No members of the public appeared to offer testimony related to this matter.

Decision

County Requirements for Granting Variances

In accordance with CZO §24.3, the Board shall not grant a variance unless it makes findings based upon evidence presented to it that:

- (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.

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. Several factors support this decision.

Firstly, the Board finds that strict interpretation of the CZO would result in practical difficulty due to the physical surroundings of the Property. CZO §24.3.1. The Maryland Supreme Court 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, set backs, 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.

McLean v. Soley, 270 Md. 208, 214-215 (1973).

Here, the Applicant demonstrates that the particular physical surroundings of the Property would result in a practical difficulty. At little over nine-thousand square feet, the Property is exceptionally small. Its configuration, and the structure built upon it, appear to predate the advent of any comprehensive zoning ordinance in St. Mary's County, let alone the current development regulations. The neighboring properties are in common ownership. Given these factors, and given the description of the use proffered by Applicant's representative, it appears any potential impacts will be contained and minimized, even without the required buffer yards.

Secondly, the circumstances present in this matter are generally inapplicable to other similarly situated properties. As noted above, the driving cause of the variance is the exceptionally small size of the parcel. Generally speaking, a lot so small, with so much of it already covered by an existing building, is a rare sight. These difficulties do not commonly present themselves.

Thirdly, the purpose of seeking the variance is not "based exclusively upon reasons of convenience, profit, or caprice." The Applicant asks to make reasonable use of an existing structure. The proposal does not seek extraordinary relief, nor is compliance with the current development regulations accomplishable with only a modicum of increased cost. The requested appearance appears is fundamental to Applicant's desire to make the intended use of his property.

Fourthly, the need for the variance does not arise from actions of the Applicants. As noted above, the need rises from the physical constraints of the Property and the placement of the existing structure.

Fifthly, the granting of the requested variance will not detrimentally affect the public welfare, injure other properties, or change the character of the district. The neighboring property owners were notified of the variance request, affording them the opportunity to speak on the matter. No members of the public appeared to offer testimony related to this matter. The adjacent properties most likely to bear the impact of the proposed use are under common ownership with the Property, affording Applicant an ability to relieve any future impacts well beyond the ken of most applicants. Accordingly, The Board finds this variance request will not be detrimental to the public welfare or injurious to other neighboring properties or improvements. The Board further finds that the character of the district will not be changed by the variance, as this is a redevelopment of an existing use on the Property.

Sixthly, the Board does not find that the proposed variance will substantially increase congestion of the public streets, increase the danger of fire, endanger public safety, or substantially diminish or impair property values within the neighborhood.

Lastly, the Board finds that granting the variance will be in harmony with the general spirit, intent, and purport of the CZO. Buffer yards are intended to “eliminate or minimize conflicts between potentially incompatible, but otherwise permitted uses.” CZO § 63.1.2. The realities of the case before the Board suggest these conflicts will not be present in this particular matter.

ORDER

PURSUANT to the application of Marcelino Martinez for a variance from Comprehensive Zoning Ordinance Section 63.3 to remove the required 65’ “B” type Buffer Yard along the property

lines adjacent to Parcel 239, Tract 1 and Parcel 84; and

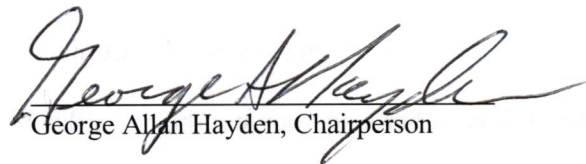
PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is, hereby,

ORDERED, by the St. Mary's County Board of Appeals, pursuant to CZO § 24.8, that the Applicant is granted the requested variance;

UPON CONDITION THAT, Applicant shall comply with any instructions and necessary approvals from the St. Mary's County Government's Department of Land Use and Growth Management, the St. Mary's County Health Department, and the Critical Area Commission.

This Order does not constitute a building permit. 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 23, 2025

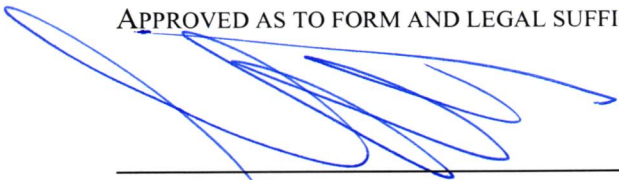

George Allan Hayden, Chairperson

Those voting to grant the variance:

Mr. Hayden, Mr. Brown, and Mr. Payne,

Those voting to deny the variance:

APPROVED AS TO FORM AND LEGAL SUFFICIENCY



Steve Scott, Esquire,
Board of Appeals Attorney

NOTICE TO APPLICANTS

Within thirty (30) 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.

Further, St. Mary's County Comprehensive Zoning Ordinance § 24.8 provides that a variance shall lapse one (1) 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 sixty (60) days of the date of this Order; otherwise, they will be discarded.