

IN THE ST. MARY'S COUNTY BOARD OF APPEALS

VAAP NUMBER 25-0169

STEVENSON PROPERTY

FIRST ELECTION DISTRICT

VARIANCE REQUEST HEARD: MAY 8, 2025

ORDERED BY:

**George Allan Hayden, Chair
John Brown, Vice Chair
Donald LaRocco, Member
Ronald Payne, Sr., Member
Rita Weaver, Member**

ENVIRONMENTAL PLANNER: AMANDA YOWELL

DATE SIGNED: June 12, 2025

Pleadings

Robert Stevenson (hereinafter “Applicant”) seeks a variance from the St. Mary’s County Comprehensive Zoning Ordinance (hereinafter “CZO”), specifically §71.5.2.b, to disturb the expanded 100’ wetland buffer for a home addition.

Public Notification

The hearing notice was advertised in the *Southern Maryland News*, a newspaper of general circulation in St. Mary’s County, on April 18, 2025, and April 25, 2025. A physical posting was made on the property, and all property owners within 200 feet were notified by certified mail, on or before April 23, 2025. The Agenda was also posted on the County’s website by Friday, May 2, 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 May 8, 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, the proceedings were electronically recorded, and the following was presented about the proposed amendment requested by the Applicants.

The Property

The subject property is situate Beachville Road, Piney Point, Maryland (hereinafter “Property”). Per SDAT, it is 1.0 acre. It is zoned Rural Preservation District. The Property can be found at Tax Map 67, Grid 9, Parcel 103.

The Variance Requested

Applicants seek a variance from CZO §71.5.2.b to disturb the expanded nontidal wetland buffer construct a home addition.

St. Mary's County Comprehensive Zoning Ordinance

CZO §71.5.2.b(1) requires that “[a] 25-foot buffer shall be preserved from the edge of non-tidal wetlands and shall be expanded up to 100 feet to include areas of adjoining hydric soils.”

Departmental Testimony and Exhibits

Amanda Yowell, the Environmental Planner for the St. Mary's County Government's Department of Land Use and Growth Management (“LUGM”), presented the following evidence:

- According to the Maryland Department of Assessments and Taxation, the existing dwelling was built in 1916, prior to the current zoning regulations of St. Mary's County.
- This property consists of one-acre, which Department of Natural Resources (DNR) mapping indicates is impacted by a non-tidal wetland (Attachment 2). The non-tidal wetland buffer is also expanded up to a 100' for hydric soils to include much of the remaining lot (CZO Section 71.5.2).
- The site plan (Attachment 3) proposes adding a 26' x 28' addition onto this dwelling, a 7' x 26' deck and a 12' x 20' deck onto each side of the home all of which impact the 100' nontidal wetland buffer, which is expanded for hydric soil types.
- No impacts to the Maryland Department of the Environment (MDE) regulated 25' nontidal wetland buffer are proposed with this application.
- The Department of Land Use and Growth Management approved the site plan for zoning requirements. The St. Mary's County Health Department has approved the site plan. The site plan was exempted from stormwater management requirements, since it proposes less than 5,000 square feet of soil disturbance.
- Attachments to the Staff Report, including:
 - #1: General Standards Letter;

- #2: Location Map;
- #3: Land Use Map;
- #4: Zoning Map;
- #5: Wetlands & Soils Map; and,
- #6: Site Plan

Applicant's Testimony and Exhibits

Applicant appeared to offer testimony and answer questions posed by the Board. His presentation included the following:

- The buffer is only ten feet away from the edge of his existing house.
- The house itself is very small.

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. The addition is reasonable and of modest character and scope. The property is impacted by the expanded wetlands buffer, and the buffer falls only approximately ten feet away from the location of his residence, which was built in 1916 – well prior to the introduction of the non-tidal wetlands buffer. Based upon the conditions shown on the site plan and maps incorporated in the Staff Report, the Board was not offered, and does not see, any means by which a lesser variance would allow for the Applicant to improve the existing home. We find sufficient grounds to conclude a practical difficulty is present.

Secondly, the circumstances present in this matter are generally inapplicable to other similarly situated properties. In adopting this portion of the Ordinance, the primary focus was environmental protection, not rendering a property undevelopable. As noted in the foregoing paragraph, the Property is heavily entirely constrained by the expanded nontidal wetlands buffer, a physical constraint not encountered on most properties.

Thirdly, the purpose of seeking the variance is not “based exclusively upon reasons of convenience, profit, or caprice.” The Applicant asks only for a reasonable addition to an existing small home. The proposal does not seek extraordinary or excessive relief, and will not be left with

a property uncharacteristic of what may be found on similarly situated properties.

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 109-year-old home.

Fifthly, the granting of the requested variance does 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 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. The variance seeks minimum limits of disturbance in the expanded wetland buffer and moves development further away from the wetlands buffer to redevelop the Property. This allows the Applicant to achieve reasonable use of their land, similar to others in the neighborhood and in harmony with the CZO.

ORDER

PURSUANT to the application of Robert Stevenson for a variance from Comprehensive Zoning Ordinance §71.5.2.b, to disturb the expanded 100' wetland buffer for a home addition; and

PURSUANT to the notice, posting of the property, and public hearing and in accordance

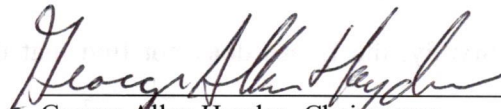
with the provisions of law, it is, hereby,

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, Applicants 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 Applicants 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: June 12, 2024

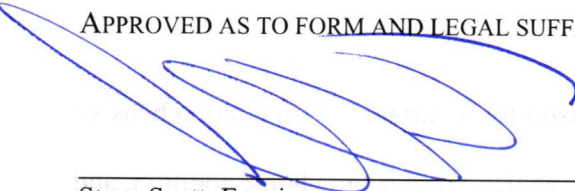

George Allan Hayden, Chairperson

Those voting to grant the variance:

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

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.