

IN THE ST. MARY'S COUNTY BOARD OF APPEALS

VAAP NUMBER 25-2136

TANCRETO PROPERTY

NINTH ELECTION DISTRICT

VARIANCE REQUEST HEARD: JANUARY 8, 2026

ORDERED BY:

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

ENVIRONMENTAL PLANNER: STACY CLEMENTS

DATE SIGNED: February 12, 2026

Pleadings

The Richard G. Tancreto Living Trust (“Applicant”) seeks a variance from the St. Mary’s County Comprehensive Zoning Ordinance (“CZO”) Section 71.8.3 to disturb the Critical Area Buffer for a house and driveway.

Public Notification

The hearing notice was advertised in the *Southern Maryland News*, a newspaper of general circulation in St. Mary’s County, on December 19 and December 26, 2025. A physical posting was made on the property and all property owners within 200’ were notified by certified mail on or before December 24, 2025. The agenda was also posted on the County’s website on Wednesday, December 31, 2025. Therefore, the Board of Appeals (“Board”) finds and concludes the variance request’s notice requirements have been met.

Public Hearing

A public hearing was conducted at 6:30 p.m. on January 8, 2026 at the St. Mary’s County Governmental Center, 41770 Baldrige Street, Leonardtown, Maryland. All persons desiring to be heard were duly sworn and the proceedings were recorded electronically.

The Property

The subject property (hereinafter “the Property”) is situate 16149 Piney Point Road, Piney Point, Maryland. It consists of 19,639 square feet, more or less. It is Rural Preservation District (“RPD”), and portions of the Property lie within the Limited Development Area (“LDA”) and Resource Conservation Area (“RCA”) Critical Area overlays. The Property may be found among the Tax Maps of St. Mary’s County at Map 69, Grid 15, Parcel 197.

Applicable Law: St. Mary’s County Comprehensive Zoning Ordinance

CZO § 71.8.3 requires there be a minimum 100-foot buffer (“the Buffer”) landward from

the mean high-water line of tidal waters, tributary streams, and tidal wetlands. Generally, no new impervious surfaces or development activities may be authorized in the 100-foot buffer unless an applicant obtains a variance. CZO § 71.8.3(b)(1)(c).

Departmental Testimony and Exhibits

Stacy Clements, an Environmental Planner for the St. Mary's County Department of Land Use & Growth Management ("LUGM"), presented a slideshow summarizing the matter. Additionally, a staff report was entered into the record. Testimony provided by staff included:

- The Property is a grandfathered parcel since it was recorded by deed prior to the adoption of the Maryland Critical Area Program on December 1, 1985. It is a 19,639 square foot lot and is adjacent to the tidal waters of the Island Creek
- The Property is constrained by the Buffer.
- The site plan proposes a new home and driveway which impact the Buffer. A total of 2,095 square feet of new lot coverage within the Buffer is proposed by Applicant.
- Mitigation will be required at a ratio of 3:1 for the variance. Mitigation must meet the standards of COMAR 27.01.09.01-2 Table H. If the variance is approved, a planting agreement and plan will be required prior to the issuance of any building permit.
- The Critical Area Commission provided a response letter on December 2, 2025. The Commission did not state it opposes the variance requested, but noted that the Applicant has the burden to prove each and every Critical Area variance standard.
- The Department of Land Use and Growth Management has approved the site plan for zoning, floodplain, and stormwater requirements. Soil Conservation District has approved the site plan. The Health Department has approved the water and Metcom

has approved the sewer, while Maryland Department of the Environment will need to approve the disturbance to the non-wetlands.

- Attachments to the Staff Report:
 - Attachment 1: Critical Area Standards Letter
 - Attachment 2: Critical Area Map
 - Attachment 3: Site Plan
 - Attachment 4: Location Map
 - Attachment 5: Land Use Map
 - Attachment 6: Zoning Map
 - Attachment 7: Existing Conditions Map
 - Attachment 8: Critical Area Commission Response

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 showed the pictures depicting the existing site conditions and the proposed site plan. He also answered questions posed by the Board. Testimony and evidence adduced by the Applicant included, but was not limited to, the following points, presented in summary:

- The property is currently unimproved.
- The applicant proposes a "very modest" house. Almost the entire property lies within the Critical Area Buffer. That, and the front building restriction line, limit the possible locations of a house.
- The house will have a small footprint and will be multi-level to maximize available living space without expanding the footprint.

- Total footprint of the proposed house is 1,040 square feet and total proposed lot coverage is 2,910 square feet.
- Applicant is in the process of attaining a wetlands permit from the Maryland Department of the Environment.

Public Testimony

No members of the public appeared to offer testimony related to the variance request.

Written comments were received from the following:

- *Viki Volk-Russell and Francis Jack Russell*, 16127 Piney Point Road
 - Ms. Volk-Russell and Mr. Russell's email identified themselves as neighbors of the Property. They indicated they support the variance request and "are confident Mr. Tancreto will do a professional job of building an attractive addition to our neighborhood."
- *Jonathan Lewis*, 16444 Piney Point Road
 - Mr. Lewis' emailed identified himself as a resident of St. George Island. He stated that granting a variance "would be injurious to our Island and set a precedent that could cause even more disruption to our environment and its residents." He said the lot in question provides an essential buffer for Island Creek and that it would be a shame to see more of the island's flora and fauna "suffer for a development that was not permitted under current ordinance." He also opined that "it was incumbent upon the prospective buyers to ascertain what was actually "Buildable" and not rely on the County to alter its zoning plans to accommodate their needs."

Decision

COMAR Requirements for Critical Area Variances

COMAR 27.01.12.04 requires an Applicant to meet each of the following standards before a Critical Area variance may be granted:

- (1) Due to special features of the site or special conditions or circumstances peculiar to the applicant's land or structure, a literal enforcement of the local Critical Area program would result in an unwarranted hardship to the applicant;
- (2) A literal interpretation of the local Critical Area program would deprive the applicant of a use of land or a structure permitted to others in accordance with the provisions of the local Critical Area program;
- (3) The granting of the variance would not confer upon the applicant any special privilege that would be denied by the local Critical Area program to other lands or structures in accordance with the provisions of the local Critical Area program;
- (4) The variance request is not based upon conditions or circumstances that are the result of actions by the applicant;
- (5) The variance request does not arise from any conforming or nonconforming condition on any neighboring property;
- (6) The granting of the variance would not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction's local Critical Area; and
- (7) The granting of the variance would be in harmony with the general spirit and intent of the Critical Area law, the regulations in this subtitle, and the local Critical Area program.

Additionally, the Maryland Code Annotated, Natural Resources Article, § 8-1808(d)(2)(ii)

also requires the Applicant to overcome the presumption that the variance request should be denied.

Findings - Critical Area Variance

Upon review of the facts and circumstances, the Board finds and concludes the Applicant is entitled to the requested relief.

The Board finds that denying the Applicant's request would constitute an unwarranted hardship. In *Assateague Coastal Trust, Inc. v. Roy T. Schwalbach*, 448 d. 112 (2016), the Court of Appeals established the statutory definition for "unwarranted hardship" as it pertains to prospective development in the Critical Area:

[I]n order to establish an unwarranted hardship, the applicant has the burden of demonstrating that, without a variance, the applicant would be denied a use of the property that is both significant and reasonable. In addition, the applicant has the burden of showing that such a use cannot be accomplished elsewhere on the property without a variance.

Id. at 139. *Assateague Coastal Trust* requires the Applicant to identify a use that would be significant and reasonable. The use in question is a single-family dwelling. A residence is a basic and foundational use to devote real property towards, and its inherent significance and reasonableness are self-evident. The use is proposed in a setting that encroaches as little upon the Buffer as may be reasonably expected. Applicant's surveyor highlighted the impracticability, if not outright impossibility, of siting a home on the Property that does not in some way encroach upon the Buffer. The Board finds that depriving Applicant of the right to build the requested single-family home would amount to denial of a reasonable and significant use of the property.

Secondly, the Board finds literal interpretation of the local Critical Area program would deprive Applicant of a substantial use of land or a structure permitted to others. The proposed single-family home is not an atypical improvement, is of a modest scale, and is of a character and

size that appear to be typical for its setting.

To the third factor, the granting of the variance would not confer upon the applicant any special privilege that would be denied by the local Critical Area program to other lands or structures in accordance with the provisions of the local Critical Area program. Applicant avails itself of their right to seek a variance. Natural Resources Article § 8-1808(c)(1)(iii)(13) mandates that mechanisms to petition for a variance be included in every local Critical Area program. Applicant is not afforded any greater privilege than that of requesting a variance and being given a fair opportunity to demonstrate their request satisfies the standards for receiving one.

Fourth, the variance request is not based upon conditions or circumstances that are the result of actions by the Applicant. The need for a variance ultimately stems from the geography and environmental constraints of the site itself. As Maryland's courts have held previously, the fact that Applicant purchased a property subject to zoning constraints does not mean the hardship is self-created, nor does Applicant's foreknowledge (actual or constructive) nullify his right to seek a variance and otherwise prevail on the merits. *Richard Roeser Professional Building, Inc. v. Anne Arundel County, Maryland*, 368 Md. 294, 314 (2002) ("The types of hardships that are normally considered to be self-created in cases of this type do not arise from purchase, but from those actions of the landowner, himself or herself, that create the hardship, rather than the hardship impact, if any, of the zoning ordinance on the property").

Fifth, the variance request does not arise from any conforming or nonconforming condition on any neighboring property.

Sixth, the granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdictions local Critical Area. Heavy mitigation will be required in order to develop this Property as proposed. These plantings will help mitigate

the adverse effects of development and will improve floral and fauna habitat in the Critical Area Buffer.

Finally, by satisfying the above criteria the Board finds that granting of the variance will be in harmony with the general spirit and intent of the Critical Area's laws and regulation and the local Critical Area program. The Applicant proposes a significant and reasonable use; the Applicant proposes what appears to be the least impactful means to establish that use on the Property. We find granting the request before us, based upon the facts, circumstances, and mitigating factors presented by the Applicant at the hearing and in its standards letter, is in conformity with the goals of St. Mary's County's Critical Area program.

Finally, in satisfying each of the necessary criteria the Applicant has overcome the statutory presumption against granting a variance.

ORDER

PURSUANT to the application of Richard G. Tancreto Living Trust for a variance from CZO Section 71.8.3 to disturb the Critical Area Buffer for a house and driveway; and

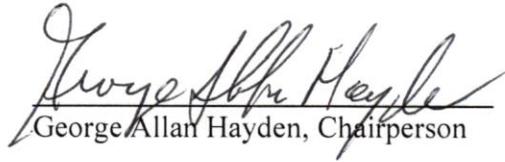
PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is

ORDERED, by the St. Mary's County Board of Appeals, pursuant to CZO § 21.1.3.a and CZO § 24.8, that Applicant is granted the requested variance.

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 Applicant to construct the structures permitted in this decision, he must apply for and obtain the necessary building permits, along with any other approvals required to perform the work described herein.

Date: February 12, 2026

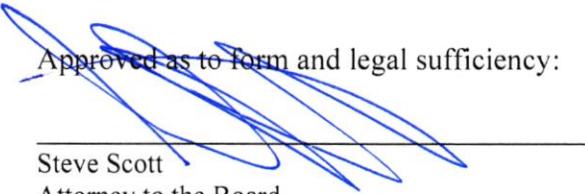

George Allan Hayden, Chairperson

Those voting to grant the amendment:

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

Those voting to deny the amendment:

Approved as to form and legal sufficiency:



Steve Scott
Attorney to the Board

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 Notice of Appeal with the County Board of Appeals. By state law, St. Mary's County may not issue a permit for the requested activity until the 30-day appeal period has elapsed.

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.