

**IN THE ST. MARY'S COUNTY BOARD OF APPEALS**

**VAAP NUMBER 23-1003**

---

**TIPPETT PROPERTY**

**SIXTH ELECTION DISTRICT**

**DATE HEARD: NOVEMBER 21, 2023**

---

**ORDERED BY:**

**Mr. Ichniowski, Mr. Bradley, Ms. Delahay,  
Mr. Miedzinski and Mr. Richardson**

**ENVIRONMENTAL PLANNER: STACY CLEMENTS**

---

**DATE SIGNED: Nov 21, 2023**

### **Pleadings**

Thomas Nelson and La Donna Mary Tippet (‘‘Applicants’’) seek a variance (VAAP # 23-1003) from Comprehensive Zoning Ordinance § 71.8.3 to disturb the 100’ Critical Area Buffer to construct a single-family dwelling.

### **Public Notification**

The hearing notice was advertised in the *Southern Maryland News*, a newspaper of general circulation in St. Mary’s County, on November 3, 2023 and November 10, 2023.<sup>1</sup> Notice was physically posted on the property by November 6, 2023. 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 200’ of the property was notified by mail, sent to the address furnished with the application. The agenda was also posted on the County’s website on November 17, 2023. Therefore, the Board finds and concludes there has been compliance with the notice requirements.

### **Public Hearing**

A public hearing was conducted at 6:30 p.m. on November 21, 2023 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 Applicant.

### **The Property**

Applicants own real property situate 24644 Tippet Lane, Hollywood, Maryland (‘‘the

---

<sup>1</sup> This matter was originally heard at a previous meeting of the Board held October 12, 2023. That night the Board of Appeals voted to grant the requested variance after a full hearing. Subsequently, it was discovered that some properties, owing to a technical error, did not receive the full notice required by Board of Appeals Rules of Procedure Rule 2-104(b)(1). Accordingly this matter was set to be heard again *de novo* after perfected notice was given.

Subject Property”). The Subject Property is in the Residential, Neighborhood Conservation (“RNC”) zoning district, has a Limited Development Area (“LDA”) Critical Area overlay, and is identified at Tax Map 27, Grid 12, Parcel 412.

### **The Variance Requested**

Applicant seeks a variance from St. Mary’s County Comprehensive Zoning Ordinance (“CZO”) § 71.8.3 to disturb the 100’ Critical Area Buffer to construct a replacement house.

### **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 (“the Buffer”). 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).

### **Staff Testimony**

Stacy Clements, an Environmental Planner for the St. Mary’s County Department of Land Use and Growth Management (“LUGM”) presented a staff report, a PowerPoint presentation, and offered oral testimony that together included the following testimony:

- The Subject Property is a grandfathered lot in the Critical Area of St. Mary’s County. It was recorded prior to adoption of the Maryland Critical Area Program on December 1, 1985.
- Per the State Department of Assessments and Taxation, the lot is 6,098 square feet in size, more or less. It is located on Tippett Road and is adjacent to the tidal waters of Cuckold Creek. It is improved by an existing dwelling SDAT reports was built in 1900, prior to the current zoning regulations of St. Mary’s County.
- The house was improved upon with a 6’ x 11’ addition under Permit #91-1844, which was