

ST. MARY'S COUNTY BOARD OF APPEALS

In the Matter of St. Mary's County Metropolitan Commission
Great Mills Waste Water Pump Station, Great Mills, Maryland Case No. VAAP #17-1266

DECISION AND ORDER

Introduction

St. Mary's County Metropolitan Commission (hereinafter "Applicant"), filed an application for a variance from the regulations of the St. Mary's County Comprehensive Zoning Ordinance (hereinafter the "Ordinance") regarding property located at regarding property located on tax map 50, grid 18, parcel 177 in Great Mills, Maryland, Great Mills, Maryland (hereinafter the "Property"). The application seeks a variance from Section 76.5.3.a of the Comprehensive Zoning Ordinance to construct a waste water pump station in a floodway.

After due notice, a public hearing was conducted at 6:30 p.m. on July 26, 2018, at the St. Mary's County Governmental Center at 41770 Baldrige Street, Leonardtown, Maryland. All persons desiring to be heard were heard after being duly sworn, documentary evidence was received, and the proceedings were recorded electronically.

Legal Standard

1. In considering variance applications, the Board of Appeals shall consider and make findings of fact on all evaluations, all relevant factors, requirements specified in other sections of these regulations, and the following factors:
 - (A) The danger that materials may be swept onto other lands to the injury of others.
 - (B) The danger to life and property due to flooding or erosion damage.
 - (C) The susceptibility of the proposed development and its contents (if applicable) to flood damage and the effect of such damage on the individual owner.
 - (D) The importance of the services to the community provided by the proposed development.
 - (E) The available [availability] of alternative locations for the proposed use which are not subject to, or are subject to less, flooding or erosion damage.
 - (F) The necessary to the facility of a waterfront location, where applicable, or if the facility is a functionally dependent use.

- (G) The compatibility of the proposed use with existing and anticipated development.
- (H) The relationship of the proposed use to the comprehensive plan and hazard mitigation plan for that area.
- (I) The safety of access to the property in times of flood for passenger vehicles and emergency vehicles.
- (J) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effect of wave action, if applicable, expected at the site.
- (K) The costs of providing government services during and after flood conditions, including and repair of public utilities and facilities such as sewer, gas, electric, and water systems, and streets and bridges.
- (L) The comments provided by MDE (NFIP State Coordinator).

2. Limitations for Granting Variances.

The Board of Appeals shall make an affirmative decision on a variance request only upon:

- (A) A showing of good and sufficient cause. Good and sufficient cause deals solely with the physical characteristics of the property and cannot be based on the character of the improvement, the personal characteristics of the owner/inhabitants, or local provision that regulate standards other than health and public safety.
- (B) A determination that failure to grant the *variance* would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.
- (C) A determination that the granting of a *variance* for *development* within any designated *floodway*, or flood hazard area with *base flood elevations* but no designated *floodway*, will not result in increased flood heights beyond that which is allowed in these regulations.
- (D) A determination that the granting of a *variance* will not result in additional threats to public safety; extraordinary public expense, nuisances, fraud or victimization of the public, or conflict with existing local laws.

- (E) A determination that the building, *structure* or other *development* is protected by methods to minimize flood damages.
- (F) A determination that the *variance* is the minimum necessary to afford relief, considering the flood hazard.

Findings of Fact

The subject property (the "Property") is the site of a proposed waste water pump station designed to replace the existing, pump station located on parcel 659, which was constructed in the 1980s. The new pump station will provide much needed capacity and serve the Great Mills area.

That County staff held a conference call with representatives from the Metropolitan Commission, Federal Emergency Management Agency (FEMA) staff, and Maryland Department of the Environment staff on June 13, 2018, MDE staff indicated that the County is currently undergoing a re-mapping of the Non-Tidal Floodplains and Floodways. As part of this project, the proposed Waste Water Pump Station will be removed from the floodway along with the Friendly Tavern Complex, and other structures. This process will help to correct the existing structures that have been placed or mapped in the floodway. The engineering process that will be used for the remapping will account for the structures in the floodway and any potential rise in the Base Flood Elevation (BFE) associated with those structures.

That the Board adopts as its further findings the written memorandum from Metcom that addresses the standards for granting a flood plain variance.

Conclusions of Law

The Applicant requests a variance from 76.7 of the Comprehensive Zoning Ordinance to construct a waste water pump station in the floodway.

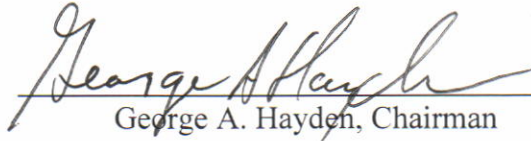
After hearing the testimony of Metcom's Director, George Erichsen, consideration of Land Use and Growth Management's Staff Report, written comments from the State coordinating office of the National Flood Insurance Program, the written memorandum from Metcom addressing the standards for granting a flood plain variance, and reviewing the legal standards for granting a flood plain variance the Board makes the following conclusions: that the requested waste water pump station meets the standards for granting a variance from the flood plain regulations.

ORDER

NOW, THEREFORE, BE IT ORDERED, that, having made a finding that the standards for granting a flood plain variance and the objectives of 76.7 of the St. Mary's County

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Comprehensive Zoning Ordinance have been met to construct a waste water pump station in the
floodway is **granted**.

Date: July 26, 2018


George A. Hayden, Chairman

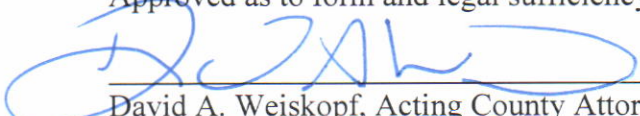
Those voting to grant the variance:

Mr. Hayden, Mr. Greene, Mr. Miedzinski,
Mr. Brown and Ms. Delahay

Those voting to deny the variance:

NONE

Approved as to form and legal sufficiency


David A. Weiskopf, Acting County Attorney