

IN THE ST. MARY'S COUNTY BOARD OF APPEALS

VAAP NUMBER 25-1709

KOCINSKI PROPERTY

THIRD ELECTION DISTRICT

VARIANCE REQUEST HEARD: JUNE 11, 2026

ORDERED BY:

**George Allan Hayden, Chair
John Brown, Vice Chair
Donald LaRocco, Member
Ronald Payne, Sr., Member
Dr. Michael Valcke, Member**

ENVIRONMENTAL PLANNER: ANDREW CHENEY

DATE SIGNED: July 9, 2026

Pleadings

Michael and Danielle Kocinski (hereinafter “Applicants”) seek 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 garage.

Public Notification

The hearing notice was advertised in the *Southern Maryland News*, a newspaper of general circulation in St. Mary’s County, on May 22, 2026 and May 29, 2026. A physical posting was made on the property, and all property owners within 200 feet were notified by certified mail, on or before May 27, 2026. The Agenda was also posted on the County’s website by Friday, May 29, 2026. 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 June 11, 2026, 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 39793 Lady Baltimore Avenue, Leonardtown, Maryland 20650 (hereinafter “Property”). Per SDAT, it is 1.5 acres in size, more or less. It is split-zoned Rural Preservation District and Residential, Neighborhood Conservation. The Property can be found at Tax Map 39A, Grid 21, Parcel 10.

The Variance Requested

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

buffer construct a garage.

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

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

- The Property is a developed parcel consisting of 1.5 acres lot located at 39793 Lady Baltimore Ave., Leonardtown, MD 20650.
- The site plan proposes a new 24' x 24' garage, which impacts the 100-foot nontidal wetland buffer. The proposed garage impacts the non-tidal wetland buffer, which is expanded to 100 feet for the presence of hydric soils.
- The Maryland Department of the Environment (“MDE”) has done a site visit with the applicant and exempted the proposed garage from COMAR regulations, “as it will have minimal adverse impacts to regulated resources”.
- All reviewing agencies have approved the site plan, excepting those whose approval is contingent on grant of the variance.
- Attachments to the Staff Report, including:
 - #1: Standards Letter;
 - #2: Site Plan;
 - #3: Wetland & Soils Map;
 - #4: Location Map;
 - #5: Land Use Map;

- #6: Zoning Map;
- #7: Existing Conditions Map; and,
- #8: MDE Response Letter

Applicants' Testimony and Exhibits

Michael Kocinski appeared to offer testimony and answer questions posed by the Board.

His presentation included the following:

- Mr. Kocinski explained that he had originally proposed a larger structure but reduced the size after consulting with the state regarding potential impacts on the wetland buffer.
- The location of the proposed garage was deliberately chosen to minimize disturbance to the wetland buffer, noting that the minimal footprint would only impact six square feet of the 25-foot nonexpanded buffer.
- In his standards letter, Mr. Kocinski stated that the Comprehensive Plan encourages responsible residential development while protecting natural resources. He stated he believed the project achieves these goals, as further evinced by the State's approval of the impacts to the wetlands.

Public Testimony

One member of the public appeared to offer testimony related to this matter:

- *Paige Johnson, Leonardtown*
 - Mr. Johnson owns the property immediately south of the Property. He supports the variance request. He said that his property is a farm in permanent conservation and will not be impacted by the marginal impacts to the wetlands posed by the variance request.

Additionally, one written comment was received:

- *Brad Wheeler, Leonardtown*
 - Mr. Wheeler owns property across Lady Baltimore Avenue from the Property.
- He stated neither he nor his wife have any objections to the proposed variance.

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 Applicants are 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 Applicants demonstrate that the particular physical surroundings of the Property would result in a practical difficulty. The entirety of the Property is encumbered by the expanded

wetland buffer. The proposed garage is reasonable and of modest character and scope. 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 Applicants to construct the proposed garage. Accordingly, the Board finds 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 the bulk of properties in the RNC and RPD zoning districts.

Thirdly, the purpose of seeking the variance is not “based exclusively upon reasons of convenience, profit, or caprice.” The Applicants ask only for a reasonable improvement to supplement an existing home. The proposal does not seek extraordinary or excessive relief and will not be left within a state 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 its environmental features.

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. Two participated, both in support. 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 will not materially change the character of the 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 Comprehensive Plan. As Mr. Kocinski adroitly noted in his letter, the Comprehensive Plan seeks to balance environmental stewardship and reasonable use of existing properties. The variance request in this case strikes an acceptable balance and allows the Applicants 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 Michael and Danielle Kocinski for a variance from Comprehensive Zoning Ordinance §71.5.2.b, to disturb the expanded 100' wetland buffer for a garage; 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 Applicants are 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

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: July 9, 2026

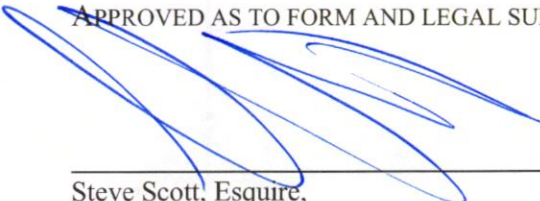

George Allan Hayden, Chairperson

Those voting to grant the variance:

Mr. Hayden, Mr. Brown, Mr. LaRocco,
Mr. Payne, and Dr. Valcke

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.