

IN THE ST. MARY'S COUNTY BOARD OF APPEALS

VAAP NUMBER 24-0244

WILLIAMS REFUGE MINOR SUBDIVISION

FOURTH ELECTION DISTRICT

VARIANCE REQUEST HEARD: MAY 8, 2025

ORDERED BY:

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

ENVIRONMENTAL PLANNER: STACY CLEMENTS

DATE SIGNED: June 12, 2025

Pleadings

Jason Deaderick & Andria K. Deaderick (hereinafter “Applicants”) seek a variance from the St. Mary’s County Subdivision Ordinance, specifically Section 30.14.5(c), to add an additional lot to a private right-of-way.

Public Notification

Hearing notice was advertised in *The Southern Maryland News*, a newspaper of general circulation, in St. Mary’s County, Maryland, on April 18, 2025, and April 25, 2025. Required mailings to neighbors and physical posting of the property was completed by April 9, 2025. The agenda was also posted on the County’s website by Wednesday, April 30, 2025. 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 May 8, 2025, at the St. Mary’s County Governmental Center, located at 41770 Baldrige Street, Leonardtown, Maryland 20650. 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 an unaddressed parcel located at 23695 East Plum Lane, Chaptico, Maryland (hereinafter “the Property”). The Property, which is 10.00 acres, more or less, is zoned Rural Preservation District and can be found at Tax Map 30, Grid 3, Parcel 118, and is Lot 1 of the Williams Refuge subdivision.

The Variance Requested

Applicants seek a variance from the St. Mary’s County Subdivision Ordinance (hereinafter “Subdivision Ordinance”), specifically §30.14.5(c), to add an additional lot to a private right-of-

way.

St. Mary's County Subdivision Ordinance

Under Subdivision Ordinance §30.14.5(c), "Subdivisions consisting of seven (7) or more residential lots or less, or farmstead subdivisions, may be served by a private road. All subdivisions, except farmsteads and lots approved through the family conveyance provisions of the Ordinance, proposed with eight (8) lots, or more, shall be served by public roads in accordance with the provisions contained herein."

Departmental Testimony and Exhibits

Stacy Clements, a Planner for the St. Mary's County Government's Department of Land Use & Growth Management ("LUGM"), presented the following evidence:

- East Plum Lane and Plum Lane are existing private rights-of-way (ROW) located off Bushwood City Road as shown on the recorded plats (Attachments 2, 3, 4 & 5). East Plum Lane and Plum Lane is approximately 2,480-feet long and serves thirteen (13) lots and parcels under 15 acres in size (Attachment 6).
- The subject property (hereinafter the "Property") consists of 10.00 acres and is currently being used as a residence according to the Maryland Department of Assessments and Taxation (Attachment 7).
- The proposed Minor Subdivision (Attachment 8) intends to create a residential lot and an outparcel through the subdivision process. The outparcel is used to help achieve the density requirements of the subdivision. No further subdivision of this property can be achieved without the use of Transferable Development Rights (TDRs).
- Attachments to the Staff Report:
 - Attachment 1: Standards Letter

- Attachment 2: Plat Book 75 at 17
- Attachment 3: Plat Book 74 at 57
- Attachment 4: Plat Book 60 at 121
- Attachment 5: Plat Book 34 at 20
- Attachment 6: Plum Lane and East Plum Lane Map
- Attachment 7: Parcel 118 SDAT Record
- Attachment 8: Proposed Minor Subdivision Plat
- Attachment 9: LUGM Review Comments dated January 29, 2025
- Attachment 10: Location Map
- Attachment 11: Land Use Map
- Attachment 12: Zoning Map

Applicants' Testimony and Exhibits

Applicants were represented before the Board by Barry Vukmer, of Chesapeake Trails Surveying, LLC. Mr. Vukmer presented a slideshow that showed maps and pictures of the Property and of Plum Lane and East Plum Lane, and answered questions posed by the Board. Testimony included, but was not limited to, the following points:

- The Applicants propose adding one home, in total, to the parcel. One parcel in the new subdivision will be buildable and one will be an outparcel, which cannot be rendered buildable without an additional public hearing.
- The Applicants have the right to access the new parcel from Bushwood City Road but are proposing to access it from East Plum Lane instead, to resolve concerns raised by a neighbor. A variance would not be required if the Applicants chose to access through Bushwood City Road.

Public Testimony

The following members of the public appeared at the public hearing to offer testimony:

- *Rhonda Hill, 23596 Bushwood City Road*
 - Ms. Hill lives at the corner of Bushwood City Road and Hillsville Lane, adjacent to the Property. She spoke in favor of the requested variance, and elaborated on issues with drainage and maintenance on the publicly-owned Bushwood City Road.

In addition to the in-person testimony, a letter was received from Ms. Hill prior to the hearing that was entered into the record.

Decision

County Requirements for Granting Variances

In accordance with Section 20.3.b of the St. Mary's County Subdivision Ordinance, the Board shall not grant a variance from the regulations of the Ordinance unless it makes findings based upon evidence presented to it that:

- a. It will not be contrary to the public interest;
- b. Owing to special conditions, the enforcement of the provisions of this Ordinance will result in practical difficulty or unwarranted hardship;
- c. It is in accordance with the purpose and intent of the St. Mary's County Subdivision Ordinance; and,
- d. It is consistent with 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 Subdivision Ordinance. Several factors

support this decision.

Firstly, the Board finds that granting the requested variance is not contrary to the public interest. No concerns about the adequacy of East Plum Lane or Plum Lane were brought to the Board, and the pictures provided by the Applicants show both appear to be more than serviceable.

The second factor is that, owing to special conditions, the enforcement of the provisions of this Ordinance will result in a practical difficulty for the Applicants. In *McLean v. Soley*, 270 Md. 208 (1973), the Maryland Court of Appeals 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 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; and
3. Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Id at 214-15.

Here, absent a variance, the Applicants would be required to undertake cost-prohibitive measures to build a county road to access a single lot, satisfying the first of the above criteria. To the second and third, no lesser variance request was suggested to the Board or Applicants to consider, and none is obvious. For the same reasons which the Board finds granting this variance request furthers the overall public interest, the Board finds substantial justice is done to the Applicants and their neighbors by granting the variance and that the spirit of the ordinance is maintained. While one additional buildable lot will add additional traffic, the Board does not find

the volume of additional traffic will make a material difference to either private road or diminish their adequacy.

Thirdly, the proposed variance adheres to the purpose and intent of the Subdivision Ordinance. Specifically, Section 30.14, which pertains to Private Roads, provides,

“The purpose of shared driveway and private road standards is to provide options to retain rural character, reduce costs, and allow more control, security, and sense of identity when public roads are not needed for circulation. These standards are intended to provide for the safety of the property owners by requiring adequate access for fire, emergency, medical and law enforcement vehicles. It provides for the continued uninterrupted use of the access for all of the owners by establishing a durable roadway and easement, and assigns responsibility for continued maintenance of the access.”

The proposed subdivision retains the rural character of East Plum Lane and Plum Lane, and we do not find that creating one additional buildable lot will change or disrupt the character of the existing neighborhood. As stated above, the evidence and testimony before the Board show the road to be in good and workable order, and the Applicants will be required to execute and record a road maintenance agreement that obligates them to maintain their share of the road.

Finally, the proposed variance complies with the Comprehensive Plan. The objectives of the Comprehensive Plan include “limit[ing] non-farm residential development outside of growth areas to be in scale and consistent with the rural character of the surrounding area. Within this objective, the following policy is noted: [e]stablish standards for major and minor residential subdivision development outside of growth areas to ensure compatibility with surrounding rural and community character.” (Comprehensive Plan, Section 4.4). The subdivision proposed by Applicants is within the contemplated degree of growth. It will not place an undue strain upon existing infrastructure, will not materially disrupt existing neighborhood patterns, will not require any expansion of public facilities, will not generate sprawl, and will maintain the overall look, feel, character, and nature of the neighborhood’s rural setting.

Accordingly, based on the above, the Board therefore finds it appropriate to grant the requested variance.

ORDER

PURSUANT to the application of Jason Deaderick and Andria K. Deaderick, petitioning for a variance from Section 20.3.b of the St. Mary's County Subdivision Ordinance to add an additional lot to a private right-of-way; and

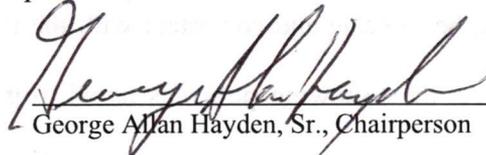
PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is

ORDERED, by the St. Mary's County Board of Appeals, pursuant to the St. Mary's County Subdivision Ordinance § 20.3, the Applicants are granted the requested variance,

UPON CONDITION THAT, Applicants 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 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, 2025

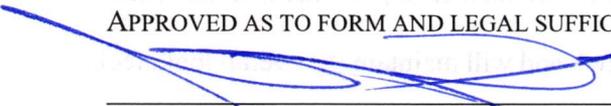

George Allan Hayden, Sr., Chairperson

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, Esq.,
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. St. Mary's County may not issue a permit for the requested activity until the thirty (30) day appeal period has elapsed.

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.