

**MINUTES OF THE ST. MARY'S COUNTY BOARD OF APPEALS MEETING
CHESAPEAKE BUILDING * LEONARDTOWN, MARYLAND
Thursday, January 8, 2009**

Members present were Howard Thompson, Chairman; Wayne Miedzinski, Ronald Delahay, Veronica Neale, and George T. Edmonds. Alternate Ronald Payne was also present. Department of Land Use & Growth Management (LUGM) staff present were Yvonne Chaillet, Zoning Administrator; Kelly Palmer, Environmental Planner I; and Jada Stuckert, Recording Secretary. Attorney George Sparling was also present.

A sign-in sheet is on file at LUGM. All participants in all cases were sworn in. The Chair called the meeting to order at 6:30 p.m.

PUBLIC HEARINGS

ZAAP #08-2011 - Mattingly

Mr. Miedzinski stated this case has a boundary dispute and recommended postponing the case.

Ms. Neale made a motion in the matter of ZAAP #08-2011, due to a boundary dispute to postpone this case while awaiting a determination from the Circuit Court and Mr. Thompson seconded. The motion passed by a 5-0 vote.

ZAAP #06-110-066 – Huseman / Estate of Jane Catherine Abell Bowles

The applicant is requesting an appeal of administrative decisions by the Planning Director determining that the property did not have adequate acreage to allow a family conveyance subdivision under footnote 8 in Schedule 32.1 of the Zoning Ordinance; that density Parcel A is a destiny parcel and cannot be developed; and that the property was not under the Applicant's ownership prior to March 13, 2002. Remanded by Circuit Court to the Board of Appeals for further proceedings consistent with the Circuit Court's opinion reversing the Board of Appeals decision on April 24, 2008 to uphold the Planning Director's denial of a family conveyance subdivision. The property contains 3.23 acres; is zoned Rural Preservation District (RPD), Airport Environs (AE) Overlay; and is located at 44141 Joy Chapel Road, Hollywood, Maryland; Tax Map 27, Block 13, Parcel 943.

Owner: Richard B. Huseman, Jr.
Present: Chris Longmore

The property and appeal were advertised in The Enterprise on December 24, 2008 and December 31, 2008.

Ms. Chaillet read the staff report which recommended reversing the Planning Director's decision. Mr. Miedzinski opened the hearing to public comment. Mr. Jay Duke stated Ms. Bowles wanted them to have two lots. Ms. Rose Gatton asked if this would make the subdivision a major subdivision and if so how would this affect the subdivision as a whole. Ms. Chaillet explained this would all be decided during the subdivision review process and could not be decided tonight. Hearing no other testimony Mr. Miedzinski closed the hearing to public comment.

Ms. Neale made a motion in the matter of ZAAP #06-110-066, Huseman, I move that the Board of Appeals hereby reverse the Planning Director's decision to deny the Appellant's request to adjust the boundary line of Lot 1 and Density Reservation Parcel A of the Estate of Jane Catherine Abell Bowles and re-subdivide and Mr. Edmonds seconded. The motion passed by a 4-0-1 vote with Mr. Thompson abstaining.

VAAP #08-0371 - Holton

The applicant is requesting variance to add new impervious surface in the expanded Critical Area Buffer; to disturb steep slopes and highly erodible soils; and to clear more than 30 percent of the

existing vegetation to construct a single-family dwelling and appurtenances. The property contains 20,037 square feet; is zoned Residential Neighborhood Conservation District (RCN), Resource Conservation Area (RCA) Overlay; and is located at 21929 Helen Lane, Leonardtown, Maryland; Tax Map 40, Grid 16, Parcel 99.

Owner: Michael and Margarita Holton
Present: William Higgs

The property and variance were advertised in The Enterprise on December 24, 2008 and December 31, 2008.

Mr. Higgs gave an overview of the project stating this is the last remaining lot in the grandfathered Mullberry Subdivision. Mr. Edmonds asked about the run-off of the steep slopes. Mr. Higgs stated there is an engineered plan which includes roof drains, retaining wall and a super silt fence would be used. Mr. Miedzinski asked about the septic and drain fields being located above the neighboring house. Mr. Higgs stated there would be two 68 foot drain lines.

Ms. Chaillet read the staff report which recommended approval of the requests. Mr. Miedzinski opened the hearing for public comment. Ms. Mayla Spears, who is an abutting property owner, stated she is concerned with the height of the house. Ms. Spears stated if the house is too high her view of the water will be blocked. Mr. Higgs stated the house will be 64 feet above sea level which is the maximum height allowed per the ordinance.

Ms. Neale made a motion to accept the staff report as findings of fact in this matter and Mr. Edmonds seconded. The motion passed by a 5-0 vote.

Mr. Thompson made a motion in the matter of VAAP #08-0371, having made a finding that the standards for granting a variance in the Critical Area and the objectives of Sections 71.7, 71.8.3, and 72.3 of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move to approve the variance requests to add new impervious surface in the expanded Critical Area Buffer, to disturb steep slopes and highly erodible soils, and to clear in excess of thirty percent in order to construct a single family dwelling and appurtenances, subject to adherence to the Critical Area Planting Agreement. The Applicants shall also provide a planting plan for review and approval by the Environmental Planner and Mr. Edmonds seconded. The motion passed by a 5-0 vote.

VAAP #08-2345 - Finnacom

The applicant is requesting variance to add new lot coverage in the expanded Critical Area Buffer and variance to reduce the side yard setback to construct additions to a single-family dwelling. The property contains 21,149 square feet; is zoned Residential, Low-Density District (RL), Intensely Developed Area (IDA) Overlay; and is located at 44962 Lighthouse Road, Piney Point, Maryland; Tax Map 65, Grid 16, Parcel 225.

Owner: Jeannine Finnacom

The property and variance were advertised in The Enterprise on December 24, 2008 and December 31, 2008.

Ms. Chaillet read the staff report which recommended approval. Ms. Finnacom stated she has discussed the renovations with all her neighbors and all are comfortable them. Mr. Jack Elliot stated due to the narrowness of the property it is necessary to reduce the side yard setback. Ms. Neale asked which boundary would be reduced. Ms. Chaillet stated the western boundary would be reduced to 3 feet.

Ms. Neale made a motion to accept the staff report as findings of fact in this matter and Mr. Thompson seconded. The motion passed by a 5-0 vote.

Mr. Miedzinski opened the hearing for public comment, hearing none, closed the hearing to public comment.

Ms. Neale made a motion in the matter of VAAP #08-2345, having made a finding that the standards for granting a variance have been met and the objectives of Section 32.1 of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move to approve the request to reduce the side yard setback on the west side of the property from 10 feet to three feet, and in the matter of VAAP #2345, having made a finding that the standards for granting a variance in the Critical Area and the objectives of Section 71.8.3 of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move to approve the variance request to add new impervious surface in the expanded Critical Area Buffer to construct additions to a single-family dwelling, subject to the following conditions:

- 1. The Applicant shall provide a Planting Plan prior to the issuance of the building permit, which shows the required 3:1 mitigation of the square footage of the new lot coverage; the proposed native species to be planted, and where on the Property the Applicant proposes to plant the vegetation; and***
- 2. The Applicant shall comply with the Critical Area Planting Agreement and the approved Planting Plan.***

Mr. Edmonds seconded and the motion passed by a 5-0 vote.

MINUTES AND ORDERS APPROVED

The minutes of December 11, 2008 were approved as recorded.

The Board authorized the Wayne Miedzinski to review and sign the following orders:

**VAAP #08-1865 – Anderson
VAAP #08-2219 – Cusic
ZAAP #06-132-017 – FDR Holdings, LLC**

ELECTION OF OFFICERS

Mr. Miedzinski made a motion to appoint Mr. Howard Thompson as Chairman and Ms. Neale seconded. The motion passed by a 4-0-1 vote with Mr. Thompson abstaining.

Ms. Neale made a motion to appoint Mr. Wayne Miedzinski as Vice-Chairman and Mr. Thompson seconded. The motion passed by a 4-0-1 vote with Mr. Miedzinski abstaining.

ADJOURNMENT

The meeting was adjourned at 7:50 p.m.

Jada Stuckert, Recording Secretary

Approved in open session: January 22, 2009

Howard Thompson
Chairman