

**MINUTES OF THE ST. MARY'S COUNTY BOARD OF APPEALS
ROOM 14 * GOVERNMENTAL CENTER * LEONARDTOWN, MARYLAND
Thursday, January 12, 2006**

Present: George Allan Hayden, Chairperson
 Greg Callaway, Vice Chair
 Ronald Delahay, Member
 Gertrude V. Scriber, Member
 Wayne Miedzinski, Member
 John B. Norris, III, County Attorney
 Denis Canavan, Director, Department of Land Use &
 Growth Management
 Yvonne Chaillet, Planner, Zoning Administration
 Keona Courtney, LUGM Recording Secretary

The Board of Appeals' 2nd Alternate, Brian Werring, was present in the audience. A sign-in sheet is on file in the Department of Land Use & Growth Management (LUGM). All participants in all cases were sworn in. The Chair called the meeting to order at 6:30 p.m.

ANNUAL ELECTION OF OFFICERS

The annual election of officers took place with Mr. Hayden being elected as Chairman and Mr. Callaway being elected as Vice Chair.

PUBLIC HEARING

VAAP #05-3007 - SIMON

The applicant is requesting a variance from Section 72.3 of the St. Mary's County Comprehensive Zoning Ordinance to clear in excess of 30 percent of the existing vegetation to construct a single family dwelling and appurtenances. The property contains 0.54 acres; is zoned Residential Neighborhood Conservation (RNC) District, Limited Development Area (LDA) Overlay; and is located at 35481 Army Navy Drive in Mechanicsville, Maryland; Tax Map 16, Block 10, Parcel 34.

Owner: James & Dorothy Simon
Present: James Simon

All cases being heard at this meeting were advertised in The Enterprise on December 28, 2005 and January 4, 2006. The properties were posted and certified mail receipts were submitted to staff for the files.

Mr. Simon explained that the previous landowner allowed the front half of the property to become overgrown with weeds and shrubs, and that there are five trees that need to be removed. He added that he does not intend to remove the fern trees that line the edge of the property. He explained that he and his wife intend to build a rambler on the property that will serve as their retirement home.

Mr. Miedzinski asked Mr. Simon about the driveways on the property. Mr. Simon explained that there is one horseshoe driveway on the front of the property, as well as a driveway on the side of the property which is a cul-de-sac that was never paved or maintained. He mentioned that there is a sewer man-hole in the middle of the cul-de-sac that stems out of the ground by approximately one foot. Mr. Miedzinski asked Mr. Simon if he intends to use the driveway on the side of the property. Mr. Simon replied that the driveway will lead to his garage and that it will be approximately 20 feet long.

Mr. Miedzinski made a motion that the staff report be accepted. The motion was seconded by Mr. Delahay and passed by a 5-0 vote.

The Chair opened and closed the hearing to public comment. There were no comments from the public.

Mr. Miedzinski asked Mr. Simon if there will be a basement to the house. Mr. Simon replied that there will be a basement. Mr. Miedzinski expressed concern about the disturbance of soil to accommodate the basement. Ms. Chaillet explained that the Soil Conservation District (SCD) has approved a Standard Erosion and Sediment Control Plan for the property. She explained that if Mr. Simon disturbs over 5,000 square feet of soil that the SCD will require him to submit an Engineered Erosion and Sediment Control Plan. Mr. Simon added that the dirt from the basement will be removed from the site. Mr. Miedzinski asked if there will be a silt fence around the property to control runoff. Mr. Simon explained that there is a silt fence around the back half of the property near the waterfront. He said that there is not a silt fence separating his property from the neighboring property, but that he intends to erect one prior to excavation. Mr. Hayden asked Mr. Simon if he intends to seal the bottom of the silt fence that is currently in place in the back of the property. Mr. Simon replied that he will have the fence sealed.

Ms. Scriber moved that having accepted the staff report and having found that the standards for variance in the Critical Area and the objectives of Section 72.3 of the St. Mary's County Comprehensive Zoning Ordinance have been met; the Board approve the variance to clear in excess of 30 percent of the existing woodland with the recommended condition to

adhere to the Critical Area Planting Agreement. The motion was seconded by Mr. Delahay and passed by a 5-0 vote.

VAAP #05-3181 – ERB

The applicant is requesting a variance from Section 71.8.3 of the St. Mary's County Comprehensive Zoning Ordinance to add impervious surface in the Critical Area Buffer with additions to a single family dwelling. The property contains 0.79 acres; is zoned Rural Preservation District (RPD), Limited Development Area (LDA) Overlay; and is located at 18258 Park Drive in St. Inigoes, Maryland; Tax Map 63, Block 21, Parcel 227.

Owner: William & Sandra Erb
Present: James H. Morgan

Mr. Morgan explained that he is a friend of the applicants, who are currently in Australia. He explained that the applicants want to attach a garage and add on to the first and second floors of the house, which was built as a vacation home over 17 years ago.

Ms. Chaillet explained that the property is a grandfathered lot that is located in the Critical Area Buffer. She explained that the applicants intend for the house to be their retirement home. She stated that there will be some clearing of the property where the addition is proposed for the garage. Ms. Chaillet explained that the SCD did not require a Standard Erosion and Sediment Control Plan because there will be limited disturbance to the property. She explained that staff recommends that the applicants adhere to the Critical Area Planting Agreement in order to prevent erosion from the construction of the property.

Mr. Callaway made a motion that the staff report be accepted. The motion was seconded by Mr. Miedzinski and passed by a 5-0 vote.

The hearing was opened and closed to public comment. There were no comments from the public.

Mr. Callaway moved that having accepted the staff report and having found that the standards for 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; the Board approve the variance to add new impervious surface in the Critical Area Buffer with the recommended condition to adhere to the Critical Area Planting Agreement. The motion was seconded by Mr. Miedzinski and passed by a 5-0 vote.

VAAP #05-2540 - WITTENBERG

The applicant is requesting an after-the-fact variance from Section 71.8.3 of the St. Mary's County Comprehensive Zoning Ordinance to disturb the Critical Area Buffer and variance from Section 71.5.2 of the St. Mary's County Comprehensive Zoning Ordinance to disturb non-tidal wetlands and hydric soils to construct a mound system. The property contains 12.77 acres; is zoned Rural Preservation District (RPD), Resource Conservation Area (RCA) Overlay; and is located at 40330 Old Breton Beach Road in Leonardtown, Maryland; Tax Map 48, Block 19, Parcel 148.

Owner: Dan and Janet Wittenberg

Withdrawn from the agenda.

ZAAP #03-120-040 – CLEMENTS LANDING, PHASE 2

The applicant is requesting an appeal of an administrative decision by the Director of the Department of Public Works & Transportation to grant a variance from Section 3.8.g.4 of the St. Mary's County Road Ordinance to extend the standard length of a cul-de-sac. The property contains 22.99 acres; is zoned Residential Low Density (RL) and Residential Mixed Use (RMX) Districts; and is Seabiscuit Court in Great Mills, Maryland; Tax Map 43, Block 8, Parcel 444.

Owner: Vsterra Hewitt, LLC

Withdrawn from the agenda.

ACTIONS TAKEN BY PLANNING DIRECTOR ON VARIANCE APPLICATIONS RECEIVED FOR ADMINISTRATIVE REVIEW

VAAP #05-3257 – Walter – 16,500 square feet – The applicant is requesting variance from Section 32.1 of the St. Mary's County Comprehensive Zoning Ordinance to reduce the front yard setback to construct a front porch. **Variance approved.**

VAAP #05-1304 – Wilson – 1.09 acres – The applicant is requesting variance from Section 71.7.3 of the St. Mary's County Comprehensive Zoning Ordinance to disturb steep slopes and variance from Section 71.8.3 of the St. Mary's County Comprehensive Zoning Ordinance to disturb the Critical Area Buffer. **Variance Denied.**

VAAP #04-2717 – O'Toole – 2.5 acres – The applicant is requesting after-the-fact variance from Section 32.1 of the St. Mary's County Comprehensive Zoning Ordinance to reduce the rear yard setback to construct a single family dwelling and appurtenances. **Variance denied.**

VAAP #05-2331 - Lot 93, Westbury – 6,318 square feet – The applicant is requesting after-the-fact variance from Section 32.1 of the St. Mary's County Comprehensive Zoning Ordinance to reduce the front yard setback to construct a single family dwelling and appurtenances.
Variance approved.

MINUTES AND ORDERS APPROVED

The minutes of December 8, 2005 were approved as recorded.

The Board authorized the Chairman to review and sign the following orders:

VAAP #05-2491 - Jubeck
VAAP #05-0051, Lot 421 – Golden Beach Subdivision

ADJOURNMENT

The meeting was adjourned at 6:55 p.m.

Keona L. Courtney
Recording Secretary

Approved in open session:
February 9, 2006

George Allan Hayden
Chairman