

**MINUTES OF THE ST. MARY'S COUNTY BOARD OF APPEALS MEETING
CHESAPEAKE BUILDING * LEONARDTOWN, MARYLAND
Thursday, April 9, 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; 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

VAAP #04-0876 - Konecny

The applicant is requesting variance to disturb steep slopes and to clear in the Critical Area Buffer and to place lot coverage in the Critical Area Buffer to construct a single-family dwelling and appurtenances. The property contains 1.93 acres; is zoned Residential Neighborhood Conservation District (RNC), Limited Development Area (LDA) Overlay; and is located at 27215 Cat Creek Road, Mechanicsville, Maryland; Tax Map 14, Block 5, Parcel 500-26.

Owner: Golden West Construction, Inc.
Present: William Higgs

The property and variance were advertised in The Enterprise on March 25, 2009 and April 1, 2009.

Ms. Chaillet read the staff report which recommended approval of the variance requests. Mr. Miedzinski asked if the applicant would have enough room to plant everything required. Ms. Chaillet stated if the plantings could not fit on the property a fee in lieu could be paid for proper mitigation. Mr. Higgs gave an overview of the project stating this is the original plan, meaning we will be grading the future septic reserve area.

Chairman Thompson opened the hearing to public comment, hearing none, closed the hearing for public comment. Mr. Miedzinski stated this is unusual to grade steep slopes to build a home. Mr. Higgs stated this is common and he has done several projects this way.

Ms. Neale made a motion in the matter of VAAP #04-0876, having made a finding that the standards for granting a variance in the Critical Area and the objectives of Section 71.7 and Section 71.8.3 of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move to approve the variance request to disturb steep slopes and the variance request to clear vegetation and add lot coverage in the Critical Area Buffer, subject to the following conditions:

- 1. The Applicant shall adhere to the Critical Area Planting Agreement for mitigation at a ratio of three to one (3:1) per square foot of the variance granted; and***
- 2. The Applicant shall provide a buffer management plan to the Department of Land Use and Growth Management for review and approval by the Environmental Planner.***

Ms. Neale reaffirmed the findings of fact of the March 12, 2009 Board of Appeals hearing and the additional requirements of the Health Department.

Mr. Edmonds seconded and the motion passed by a 4-1 vote with Mr. Miedzinski opposed.

VAAP #09-110-002 – J.A. Adams Subdivision

The applicant is requesting variance to increase the density in the Rural Preservation district (RPD). The property contains 2.716 acres; is zoned Rural Preservation District; and is located at 46225 Drayden Road, Drayden, Maryland; Tax Map 62, Grid 9, Parcel 149.

Owner: Elizabeth Mary Wascavage and Joseph Stanley Wescavage
Present: Jerry Nokleby

The property and variance were advertised in The Enterprise on March 25, 2009 and April 1, 2009.

Mr. Nokleby gave an overview of the project stating this property was created by deed only in 1988 by Mr. Adams. Mr. Nokleby stated we are trying to bring this lot into conformance with the density required in 1988. Ms. Chaillet read the staff report which recommended approval of the variance to increase density in the Rural Preservation District. Mr. Edmonds asked how much land each house would have. Ms. Chaillet stated one house would have 1.265 acres and the other would have 1.451 acres. Mr. Payne asked if this still needed subdivision review. Ms. Chaillet stated yes, this is the process.

Chairman Thompson opened the hearing to public comment, hearing none, closed the hearing for public comment.

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

Ms. Chaillet asked that the order be allowed to be signed by the Chairman outside of a public meeting. Mr. Sparling stated a meeting would have to advertise as being open to the public however it does not have to be a public hearing. Ms. Chaillet stated she would schedule this and call each member with the time and date.

Mr. Miedzinski made a motion in the matter of VAAP #09-110-002, having made a finding that the standards for granting a variance and the objectives of Sections 24.3 and 32.1 of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move to approve the variance request to increase the density in the Rural Preservation District by subdividing around existing conditions on the Property; thus creating two lots of less than five acres each and Mr. Edmonds seconded. The motion passed by a 5-0 vote.

VAAP #05-132-019 – St. Mary's Marketplace

The applicant is requesting variance to reduce the required buffer yards and to reduce the number of required off-street parking spaces. The property contains 15.10 acres; is zoned Corridor Mixed Use District (CMX), Airport Environs (AE) Overlay; and is located at the west corner of MD Route 235 and MD route 4 intersection, California, Maryland; Tax Map 34, Grid 15, Parcels 51, 52, 53, 422 and 520.

Owner: California, LLC
Present: John Norris Jr.

The property and variance were advertised in The Enterprise on March 25, 2009 and April 1, 2009.

Mr. John Norris III gave a brief overview of the project stating we have no objections to the conditions recommended by staff however ask that condition one say "wrought iron style fence". Mr. Norris stated wrought iron is hard to find a very expensive therefore we are asking that a wrought iron style fence be allowed. Ms. Chaillet stated staff does not object and this correction has been made in the staff report.

Mr. Norris gave an overview of the requested reductions in setbacks and up to 12 parking spaces. Mr. Norris Jr. submitted a set of plans labeled by the Recording Secretary as Exhibit 1 and page 63-5 of the Zoning Ordinance labeled as Exhibit 2, and an aerial photo of the site labeled as Exhibit 3. Mr. Norris Jr. gave a brief overview of the site explaining the layout of the land and the alignment of FDR Boulevard, access to the site, proposed buffers, MD Route 4 lane improvements. Mr. Miedzinski asked if the railroad track is still there. Mr. Norris stated the tracks are no longer there however the right-of-way is still present. Mr. Norris stated the site is being designed to be aesthetically pleasing.

Mr. Edmonds asked what type of buffer would be planted on MD Route 235. Mr. Norris Jr. stated MD Route 235 could be planted with a "B" type buffer. Mr. Norris stated the type of trees have not been chosen to date. Mr. Payne asked how much land is being donated to the County. Mr. Norris stated just under 2 acres would be donated to the County. Mr. Payne asked about the unused entrances. Mr. Norris stated there are entrances on Route 235 which will be closed and pointed them out on Exhibit 1. (map with lines purple and pink).

Mr. Mike Lenhart showed the Board a simulation of the traffic in the area now versus what it will be when the improvements are made to MD Route 4, labeled as Exhibit 3. Mr. Payne asked if there would be a left turn onto Route 235 from FDR Boulevard. Mr. Lenhart stated a signal should be installed in the future. Mr. Norris III stated DPW&T does have plans for a stop light at this intersection in the future. Mr. Norris III submitted a letter dated (DATE) labeled by the Recording Secretary as Exhibit 4.

Ms. Chaillet read the staff report which recommended approval of the variance to reduce the required buffer yards and to reduce the number of required off-street parking spaces.

Chairman Thompson opened the hearing to public comment. Bill Clements Sr. stated the Highway Administration is planning to close entrances and told them to utilize the back Bottom Hill Road. Mr. Clements asked what type of buffering would be utilized on Route 235. Mr. Norris III explained the buffer on Route 235 stating it would be a 15 foot wide buffer area that would be planted, not just grassed. Mr. Thompson closed the hearing for public comment.

Mr. Payne asked about the donation of land for future improvement and asked what this means. Ms. Chaillet stated if this land is ever needed for future widening etc., the County already has the land rather than trying to acquire it in the future. Mr. Payne asked why the applicant is guessing at the number of parking spaces to be deducted. Mr. Norris III stated until the final engineering is complete the exact number will not be known. Mr. Norris explained there are over 500 parking spaces being provided and the Comprehensive Plan encourages reducing parking for environmental purposes such as run-off.

Mr. Miedzinski asked about the lighting for the property. Mr. Norris Jr. stated there would be sidewalk lighting on MD Route 4 and the building lights would be downward facing lights.

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

Ms. Neale made a motion in the matter of VAAP #05-132-019, having made a finding that the standards for granting a variance and the objectives of Section 64.3 of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move to approve the variance request to reduce the required number of parking spaces by no more than 12 spaces and in the matter of VAAP #05-132-019, having made a finding that the standards for granting a variance and the objectives of Section 63.4 of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move to approve the variance request to allow parking in the required buffer on the east side of the Property along its frontage with the utility corridor; to approve the variance request to reduce the required 75-foot "B" Buffer to a 30-foot "C" Buffer along the Property's frontage with MD Route 4 and along the west side of

the Property where it will front FDR Boulevard; and to further reduce the required 30-foot "C" Buffer to 20 feet along FDR Boulevard to the west, subject to the following conditions:

- 1. The Applicant shall erect a six-foot tall, decorated wrought iron style fence along the reduced buffers; and***
- 2. The Applicant shall work with staff to determine a suitable substitution for the proposed vegetation on the southeast corner of the Property, which will enhance the appearance of this corner; and***
- 3. The Applicant shall move the required "A" buffer along the east side of the Property to parcels 51 and 422 between MD Route 235 and the proposed hiker-biker trail. The Applicant shall retain ownership of a 15-foot wide strip of land along the east side of the hiker-biker trail for planting the required "A" buffer; and***
- 4. The Applicant shall maintain all required bufferyards and, if necessary, replace any dying trees or shrubs.***

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

MINUTES AND ORDERS APPROVED

The minutes of March 12, 2009 were approved as recorded.

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

VAAP #08-110-063 – Hancock Subdivision

CUAP #05-132-050 – STS Bus Shelter

ADJOURNMENT

The meeting was adjourned at 8:40 p.m.

Jada Stuckert, Recording Secretary

Approved in open session: April 27, 2009

Howard Thompson
Chairman