

**MINUTES OF THE ST. MARY'S COUNTY BOARD OF APPEALS
ROOM 14 * GOVERNMENTAL CENTER * LEONARDTOWN, MARYLAND
Thursday, May 12, 2005**

Present: Greg Callaway, Vice Chair
 Ronald C. Delahay, Member
 Michael Hewitt, Member
 Wayne Miedzinski, Member
 Gertrude V. Scriber, 1st Alternate
 John B. Norris, III, County Attorney
 Denis Canavan, Director, Department of Land Use &
 Growth Management
 Yvonne Chaillet, Planner III, LUGM
 Sharon Sharrer, LUGM Recording Secretary

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.

PUBLIC HEARING

VAAP #05-0228 – DALE CROPPER

The applicant is requesting variance from Section 71.8.3 of the St. Mary's County Comprehensive Zoning Ordinance to construct a septic system and single-family dwelling in the expanded Critical Area Buffer and variance from Section 71.7.3 of the St. Mary's Comprehensive Zoning Ordinance to disturb slopes of 15% or greater in the Critical Area. The property contains 1.40 acres; is zoned Rural Preservation District (RPD), Resource Conservation Area (RCA) Overlay; and is Lot 4 of Seaside Manor on Seaside View Lane in Ridge, Maryland; Tax Map 67, Block 23, Parcel 770.

Owner: Dale Cropper
Agent: William Higgs, of Little Silences Rest, Inc.

Certified mail receipts were submitted to staff.

Mr. Higgs explained that the required 50 foot setback from the septic systems of the properties on either side of the subject property, as well as the approved area for the septic system on this property, dictated the placement of the well and the house. For this reason, the location of the house can not be changed, even though the Critical Area Commission (CAC) has suggested moving the house toward the road to eliminate encroachment into the expanded Buffer. He explained that the applicant would like to be able to have a deck

facing the water, and that they feel it is not an unreasonable request since their plans are well below the allowed limit of 15% impervious surface.

Board members asked if the applicant would be opposed to reducing the size of the deck or eliminating it from the plans. Ms. Chaillet asked if it would be possible to move the deck. Mr. Higgs explained that the deck could be reduced in size or moved a short distance.

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

The Vice Chair opened the hearing to the public. The public hearing closed with no comment.

Board members explained that they felt there should be a way to reconfigure the deck to eliminate encroachment into the highly erodible soils. Mr. Higgs said that the applicant would be willing to reduce the size of the deck and move the deck and steps slightly, to keep it out of the Critical Area Buffer.

Mr. Hewitt moved that having accepted the staff report, dated May 2, 2005, and having made a finding that the standards for variance in the Critical Area and the objectives of Section 71.7.3 and Section 71.8.3 of the St. Mary's County Comprehensive Zoning Ordinance have been met, the Board approve the variance to develop in the Critical Area Buffer and the variance to disturb slopes of 15% or greater with the conditions that the applicant move the deck and steps out of the Critical Area Buffer and adhere to the Critical Area Planting Agreement. The motion was seconded by Mr. Miedzinski and passed by a 5-0 vote.

CUAP #04-141-074 – ZIMMERMAN PIT

The applicant is requesting amendment to an approved Conditional Use pursuant to Chapter 25 of the St. Mary's County Comprehensive Zoning Ordinance to reduce the size of parcel 71. The property contains 355 acres; is zoned Rural Preservation District (RPD); and is located at the intersection of Parsons Mill Road, Maypole Road, and Friendship School Road in Loveville, Maryland; Tax Map 25, Block 9, Parcels 71, 102, 105, and 121.

Owner: Harvey & Mary Zimmerman
Agent: Jerry Soderberg, of DH Steffens Company

Receipts of certified mailings were submitted.

Mr. Soderberg explained that the Mr. Zimmerman would like to give his daughter and son-in-law more land. He said that this land does not encroach on any land that has been mined or is being mined currently. Since the applicant

would like to reduce the acreage of the original parcel approved for the conditional use, Board of Appeals approval is required before this land can be removed from the tract.

Ms. Chaillet explained that the boundary line between parcel 71 and lot 1 is being adjusted so that 4.31 acres can be conveyed from parcel 71 to lot 1, which reduces the overall size of the tract of land where the mining operation is located. This boundary line adjustment will not affect the mining operation at all. There is a 200 foot buffer from the property line, so this buffer will be moved approximately 130 feet eastward to maintain the 200 foot buffer once the boundary line adjustment has been approved.

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

The Vice Chair opened the hearing to public comment. The public hearing closed with no comment.

Mr. Miedzinski made a motion that having accepted the staff report, dated May 5, 2005, and having made a finding that the Conditional Use Standards of Section 25.6 of the St. Mary's County Comprehensive Zoning Ordinance have been met, the Board approve the request for amendment to the existing approved conditional use to reduce the size of parcel 71 by 4.31 acres, thus reducing the size of the original tract from 355 acres to 350.69 acres, as designated in the application, subject to the conditions stated in the staff report. The motion was seconded by Ms. Scriber and passed by a 5-0 vote.

CUAP #04-141-075 – MEDLEY'S NECK TRACT

The applicant is requesting amendment to an approved conditional use pursuant to Chapter 25 of the St. Mary's County Comprehensive Zoning Ordinance to modify the size of the tract and to change the temporary berm to a permanent berm. The property contains 393.49 acres; is zoned Rural Preservation District (RPD), Resource Conservation Area (RCA) Overlay; and is located approximately 5,000 feet south of Breton Beach Road and 3,000 feet west of MD Route 244 in Leonardtown, Maryland; Tax Map 48, Block 23, Parcels 64 & 188; Tax Map 48, Block 11, Parcel 177; and Tax Map 48, Block 13, Parcel 11.

Owner: Clara Artemesia LTD Partnership
Agent: Jerry Soderberg, of DH Steffens Company

Certified mail receipts were submitted.

Mr. Soderberg explained that he had received a letter from the head of the mining program with the State approving the retention of the temporary berm as a permanent berm, and provided copies of the letter to the Board members. He explained that the request to modify the size of the tract is really just a request to move an internal property line, and will have no affect on the mining operation itself.

Ms. Chaillet explained that, like the previous case, this is a boundary line adjustment and in no way changes the overall tract of land that upon which the mining operation is located.

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

The Vice Chair opened the hearing to public comment. The public hearing closed with no comments.

Mr. Hewitt moved that having accepted the staff report, dated May 4, 2005, and having made a finding that the Conditional Use Standards of Section 25.6 of the St. Mary's County Comprehensive Zoning Ordinance have been met, the Board approve the request to modify the size of parcels 64 and 188 and to change the temporary berm to a permanent berm, subject to the conditions stated in the Board of Appeals Order dated October 21, 1997 and all subsequent Orders. The motion was seconded by Mr. Miedzinski and passed by a 5-0 vote.

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

VAAP #05-0654 – Glen & Sandra Pulliam – 0.34 acres – The applicant is requesting variance from Section 32.1 of the St. Mary's County Comprehensive Zoning Ordinance to reduce the front yard setback. **Variance approved.**

VAAP #05-0431 – Eric Mitchell – 29,620 square feet – The applicant is requesting variance from Section 71.8.3 of the St. Mary's County Comprehensive Zoning Ordinance to increase the amount of impervious surface and variance from Section 71.7.3 of the St. Mary's County Comprehensive Zoning Ordinance to disturb slopes of 15% or greater to construct additions to a single-family dwelling in the expanded Critical Area Buffer. **Variance approved with signed planting agreement.**

MINUTES AND ORDERS APPROVED

The minutes of April 14, 2005 were approved as recorded.

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

VAAP #04-2541 – Burris

VAAP #03-0573 – Shields

CUAP #02-130-029 – McIntosh Pit, Extractive Industry

ADJOURNMENT

The meeting was adjourned at 7:12 p.m.

Sharon J. Sharrer
Recording Secretary

Approved in open session: June
16, 2005

Greg Callaway
Vice Chair