

**MINUTES OF THE ST. MARY'S COUNTY BOARD OF APPEALS MEETING
ROOM 14 * POTOMAC BUILDING * LEONARDTOWN, MARYLAND
Thursday, May 22, 2008**

Members present were George Hayden, Chairman; Wayne Miedzinski, Ronald Delahay, Veronica Neale and George T. Edmonds. 2nd Alternate Ronald Payne was also present. Department of Land Use & Growth Management (LUGM) staff present were Denis Canavan, Director; Yvonne Chaillet, Zoning Administrator; and Jada Stuckert, Recording Secretary. Christy Holt Chesser, County Attorney and George Sparling, Attorney 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 #07-0245 - Whittaker

The applicant is requesting variance to add impervious surface in the Critical Area Buffer and to trade more than 1,000 square feet of impervious surface in the Critical Area Buffer, and to reduce the front yard setback to construct a single-family dwelling and appurtenances. The property contains 4,182 square feet; is zoned Residential, Low Density District, Intensely Developed Area Overlay; and is located at 45080 Lois Marie Lane, Tall Timbers, Maryland; Tax Map 65, Block 5, Parcel 222.

Owner: Laura S. Whittaker
Present: Don and Laura Whittaker

The property and variance were advertised in The Enterprise on May 7, 2008 and May 14, 2008.

Mr. Whittaker stated he and his wife purchased four small lots, one of which they plan to build a modest 30 x 30 home. Mr. Whittaker stated they have been working with Billy Higgs of LSR. Mr. Whittaker stated the EDU has been reassigned to the parcel where they plan to build the house.

Ms. Chaillet read the staff report which recommended approval. Mr. Delahay asked why the EDU had to be transferred. Mr. Canavan stated the EDU has to be assigned to the actual building lot. Mr. Miedzinski asked if the Whittaker's could apply for another EDU later. Mr. Canavan stated they have every right to apply for another EDU.

Mr. Miedzinski asked about the 10% rule. Ms. Chaillet explained the IDA has no impervious surface limit but due to the Critical Area Buffer the applicant would have to mitigate 10% by implementing stormwater management. Mr. Hayden asked if this would be engineered stormwater management. Ms. Chaillet stated the applicant should work with a surveyor and the Board could make this a condition of their approval.

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. Mr. Whittaker asked about the plantings and where they could be placed on the property which is already pretty well covered. Ms. Chaillet stated the applicant should work with staff to achieve the 10% plantings.

Mr. Hayden opened the hearing to public comment, hearing none, closed the hearing to public comment.

Mr. Miedzinski made a motion in the matter of VAAP #07-0245, having made a finding that the standards for granting a variance in the Critical Area and the objectives of Section 71.8.3 and Section 41.5.3.i(3)(b) of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move to approve the variance request to add 972 square feet of new impervious surface in the

Critical Area Buffer and to trade more than 1,000 square feet of impervious surface in the Critical Area Buffer, subject to the following conditions:

1. The Applicant shall provide a Buffer Management Plan to the Department of Land Use and Growth Management for review and approval prior to obtaining a building permit; and
2. The Applicant shall adhere to the signed and notarized Critical Area Planting Agreement.

Having made a finding that the standards for granting a variance and the objectives of Schedule 32.1 of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move to approve the variance request to reduce the variance request to reduce the front yard setback from 25 feet to nine (9) feet and Ms. Neale seconded. The motion passed by a 5-0 vote.

VAAP #08-132-002 – Phillip Bean Center Expansion

The applicant is requesting variance to increase the maximum footprint of a commercial structure to construct an addition to the existing facility. The property contains 25.55 acres; is zoned Residential Mixed Use District, Airport Environs Overlay; and is located at 24035 Three Notch Road, Hollywood, Maryland; Tax Map 27, Block 19, Parcel 421.

Owner: St. Mary's Professional Center, Ltd. Partnership
Present: Herbert Redmond, Al Lacer, Dr. Shah

The property and variance request was advertised in The Enterprise on May 7, 2008 and May 14, 2008.

Mr. Redmond submitted Exhibit A consisting of a DH Steffens Company business card, site plan and an aerial map. Mr. Redmond gave an overview of the location of the property stating Route 235 abuts the northeast side of the property. Mr. Redmond stated SMECO right-of-way is to the east and the properties to the south of the property are privately owned. Mr. Redmond stated the Ordinance requires these buildings be separated by 10 feet for fire safety. Mr. Redmond stated the buildings need to be connected for the medical facility patients. Mr. Redmond stated the Bean center has voluntarily chosen to do a traffic study.

Mr. Lacer submitted Exhibit B consisting of Maryland Hospital Association article dated 1/7/08, total clinical physicians per 100,000 chart, Maryland Hospital Association Physician Workforce Study, Physician Workforce Study Physician Specialties Defined, calculation of 2007 clinical physician supply in Maryland, planned expansion of medical services at the Phillip J. Bean Building. Exhibit C – Planned Expansion of Medical Services at the Phillip J. Bean Building.

Dr. Shah stated there are 60 plus doctors at the medical center and we serve the tri-county area. Dr. Shah stated the community and its needs have grown which is why we need this expansion. Mr. Hayden asked if the facility expansion would be large enough. Dr. Shah stated in working with Charles and Calvert County we can accommodate the people. Mr. Hayden asked if the expansion will have a pharmacy. Dr. Shah stated someday the Bean center may include a pharmacy but there are no plans at this time.

Ms. Chaillet read the staff report which recommended approval. Mr. Miedzinski 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.

Mr. Hayden opened the hearing to public comment. Mr. Chris Insley stated he is in full support of the Bean center expansion but would like to be sure that the lighting will stay dim and that the traffic study be done.

Mr. Redmond submitted Exhibits D and E - maps of the property. Ms. Neale made a motion in the matter of VAAP #08-132-002 having made a finding that the standards for granting a variance and the objectives of Section 32.1 of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move to approve the variance request to increase the maximum footprint of a

commercial structure in the Residential, Mixed Use District by 21,484 square feet to allow the expansion of the Phillip Bean Center, subject to the following conditions:

The owners shall maintain a 75-foot "B" buffer yard along the Property's frontage with MD Route 235 pursuant to Section 63.4 of the Ordinance pertaining to buffer yards and Mr. Miedzinski seconded. The motion passed by a 5-0 vote.

DISCUSSION

Ms. Chesser stated case CUAP #06-131-009 Verizon Wildewood Water Tower has been appealed in Circuit Court. Ms. Chesser stated the transcript references a 1987 plat which was discussed at the meeting but was not entered into the record as an exhibit. Ms. Chesser stated the Judge would like to know if this 1987 plat was actually discussed at the meeting. Ms. Chesser stated she has prepared an Order in this matter. Mr. Miedzinski made a motion to include the 1987 Larry O'Day plat be included with the record and forwarded to the Circuit Court for St. Mary's County and Ms. Neale seconded. The motion passed by a 5-0 vote.

MINUTES AND ORDERS APPROVED

The minutes of April 24, 2008 were approved as recorded.

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

ZAAP # 07-0118 – Rice

VAAP #07-1966 – Dollarton

VAAP #08-0124 – Roberts

VAAP #07-3172 - Gladu

ADJOURNMENT

The meeting was adjourned at 8:15 p.m.

Jada Stuckert, Recording Secretary

Approved in open session: June 12, 2008

George Allan Hayden
Chairman