

**MINUTES OF THE ST. MARY'S COUNTY BOARD OF APPEALS MEETING
CHESAPEAKE BUILDING * LEONARDTOWN, MARYLAND
Thursday, September 25, 2008**

Members present were George Hayden, 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 Denis Canavan, Director; Yvonne Chaillet, Zoning Administrator; Jenn Ballard, Environmental Planner II; Kelly Seebold, Environmental Planner I; and Jada Stuckert, Recording Secretary. 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 #05-132-011 – Toyota of Southern Maryland – Continued from 8/28/08

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

Ms. Neale made a motion in the matter of VAAP #05-132-011 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 request to eliminate the required six-foot berm or fence for a "c" buffer, subject to the following condition: The Applicant shall submit a planting plan for review and approval by the Department of Land Use and Growth Management, which shows the native species proposed for planting in the middle of the existing buffer yard. Trees or a combination of trees and shrubs shall be planted to screen the first row of cars adjacent to the buffer yard to mitigate the visual impact and Mr. Edmonds seconded. The motion passed by a 5-0 vote.

VAAP #04-0876 - Konecny

The applicant is requesting variance to disturb steep slopes and to clear in the Critical Area Buffer and to place impervious surface 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 26, Parcel 5.

Owner: Golden West Construction
Present: Bill Higgs

The property and variance request were advertised in The Enterprise on September 10, 2008 and September 17, 2008.

Mr. Higgs gave an overview of the project referencing attachment one (1) of the staff report. Mr. Higgs stated the top of the slope will have to be removed to build the house. Mr. Edmonds asked how far back the house will be built. Mr. Higgs stated 130 feet in order to get the house and septic system on the slope.

Mr. Hayden asked how the stormwater management would work for this site. Mr. Higgs stated a geotechnical engineer would design the stormwater management and drywells.

Ms. Chaillet read the staff report which recommended approval. Mr. Hayden asked if Forest Interior Dwelling Species (FIDS) are found on the property would this hinder the development. Ms. Ballard explained if FIDS are found on the property it could affect when construction takes place and could require extra mitigation on the property.

Mr. Hayden opened the hearing to public comment, hearing none, closed the hearing to public comment. Mr. Miedzinski asked if the septic area would qualify for a sewage easement. Ms. Ballard stated the Health Department requires grading of the sewage site.

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. Miedzinski stated the Critical Area Commission is requesting this house be built closer to the road. Ms. Chaillet stated the house can not be placed closer to the road due to the site restrictions. Mr. Miedzinski stated he feels this project is overboard and not safe. Mr. Delahay, Mr. Edmonds, and Ms. Neale agreed. Mr. Sparling stated denying this application would be a complete taking of the property considering it is a grandfathered lot. Ms. Chaillet stated there is a building right on the property.

Mr. Edmonds made a motion to continue the hearing to November 20, 2008 in order to request the Department of Public Works, Critical Area Commission, and a Geotechnical Engineer visit is site and submit comments and/or testimony to the Board and Ms. Neale seconded. The motion passed by a 5-0 vote.

VAAP #08-1733 - Ewell

The applicant is requesting variance to clear in the Critical Area Buffer and to add new impervious surface in the Critical Area Buffer to construct a detached garage. The property contains 2.00 acres; is zoned Rural Preservation District (RPD), Resource Conservation Area (RCA) Overlay, Airport Environs (AE) Overlay; and is located at 45105 Nalley Road, Hollywood, Maryland; Tax Map 34, Block 5, Parcel 498.

Owner: Thomas and Louise Ewell
Present: Thomas Ewell

The property and variance were advertised in The Enterprise on September 4, 2008 and September 10, 2008.

Mr. Ewell gave a brief overview of the project stating this would be a modest detached garage to house vehicles, lawn equipment, and his woodworking tools. Ms. Seebold read the staff report which recommended approval.

Mr. Hayden opened the hearing to public comment, hearing none, closed the hearing to public comment. ***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. Miedzinski made a motion in the matter of VAAP #08-1733 having made a finding that the standards for granting a variance in the Critical Area and the objectives of Section 24.4 of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move to approve the variance request to add new impervious surface and to clear vegetation in the Critical Area Buffer to construct a detached garage, the Board also finds that the applicant has overcome the presumption that the proposed activity does not conform with the spirit of the Critical Area Law and Ms. Neale seconded. The motion passed by a 5-0 vote.

CUAP #07-131-019 – Jacob Fisher Surface Mine & VAAP #07-131-019 – Jacob Fisher Surface Mine

The applicant is requesting conditional use approval for an extractive industry involving mining more than five acres. The property contains 110 acres; is zoned Rural Preservation District (RPD); and is located at 27735 Woodburn Hill Road, Mechanicsville, Maryland; Tax Map 8, Block 20, Parcel 92.

Owner: Jacob Fisher
Present: Jerry Sodaberg

The property and conditional use were advertised in The Enterprise on September 10, 2008 and September 17, 2008.

Mr. Sodaberg gave a brief overview of the mining operations. Mr. Hayden stated by looking at the site plans provided he is unaware of the property we are looking at. Ms. Chaillet submitted Exhibit 1 – Aerial Map of location. After discussion, Mr. Hayden stated Exhibit 1 does not show the correct property.

Mr. Miedzinski made a motion in the matter of CUAP #07-131-019 and VAAP #07-131-019 to continue both cases to October 23, 2008 for the inclusion of accurate exhibits and aerial maps of the property and Ms. Neale seconded. The motion passed by a 5-0 vote.

MINUTES AND ORDERS APPROVED

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

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

VAAP #08-1110 – Miles

VAAP #07-3039 – Rosado

DISCUSSION

Mr. Sparling gave an overview of the Circuit Court's finding for the FDR Boulevard case.

ADJOURNMENT

The meeting was adjourned at 8:00 p.m.

Jada Stuckert, Recording Secretary

Approved in open session: October 9, 2008

George Allan Hayden
Chairman