

**MINUTES OF THE ST. MARY'S COUNTY BOARD OF APPEALS MEETING
CHESAPEAKE BUILDING * LEONARDTOWN, MARYLAND
Thursday, November 6, 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 Yvonne Chaillet, Zoning Administrator; Jenn Ballard, Planner II; Kelly Seebold, 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 #06-0696 - Hess

The applicant is requesting variance to add new impervious surface in the expanded Critical Area Buffer and for construction in and disturbance to non-tidal wetlands to construct a single-family dwelling and appurtenances. The property contains 7,280 square feet; is zoned Rural Preservation District (RPD), Limited Development Area (LDA) Overlay; and is located at 16406 Ball Point Road, Piney Point, Maryland; Tax Map 69, Block 9, Parcel 247.

Owner: Kurri L. Hess
Present: Robin Guyther

The property and variance were advertised in The Enterprise on October 22, 2008 and October 29, 2008.

Mr. Guyther gave an overview of the project stating the property is very small in size and constrained by tidal and non-tidal wetlands. Mr. Guyther stated the rear upper level deck will be six feet wide rather than 8 feet wide and asked if the Board would consider granting an extension of the variance to three years. Mr. Guyther stated the owner of the property lives in Texas currently and with the market dropping, she may have a hard time selling her home.

Ms. Ballard read the staff report which recommended approval of the variance requests to add lot coverage in the Critical Area Buffer and to disturb a non-tidal wetland to construct a single family dwelling and appurtenances.

Ms. Chaillet stated Section 24.8 of the Ordinance allows the Board to extend the approval of the variance. Mr. Miedzinski asked if staff was okay with the six foot wide deck. Ms. Ballard stated yes, as long as there is ¼ inch spacing between slats.

Mr. Miedzinski made a motion to accept the staff report and Ms. Neale seconded. The motion passed by a 5-0 vote. 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.

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

Mr. Miedzinski made a motion in the matter of VAAP #06-0696, having made a finding that the standards for granting a variance in the Critical Area and the objectives of Sections 71.5.2 and 71.8.3 of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move to approve the variance requests to add lot coverage in the Critical Area Buffer and to disturb a non-tidal wetland to construct a single-family dwelling and appurtenances subject to adherence to a Buffer Management Plan and Critical Area Planting Agreement with the following conditions:

1. ***The rear, second story deck shall have ¼ inch spacing between slats; and***
2. ***The variance approval shall be effective for a total of three years.***

Ms. Neale seconded the motion which passed by a 5-0 vote.

VAAP #05-3122 - Grant

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 1.66 acres; is zoned Rural Preservation District (RPD), Limited Development Area (LDA) Overlay; and is located at 25905 Whiskey Creek Road, Hollywood, Maryland; Tax Map 21, Grid 7, Parcel 144.

Owner: Brenda and Robert Grant
Present: Bill Higgs

The property and variances were advertised in The Enterprise on October 22, 2008 and October 29, 2008.

Mr. Higgs gave an overview of the project referencing staff report attachment #1. Mr. Higgs stated the Critical Area Commission requested the house be moved closer to the road, the drains not be used for stormwater management, and that the size of the house be reduced. Mr. Higgs explained the house cannot be moved closer to the road due to the sewage easement which runs through the middle of the property. Mr. Higgs stated the Soil Conservation District is requiring the drains therefore sand filters will be installed around the drains to help with the roof water runoff.

Mr. Robert Grant stated he and his wife have children and grandchildren who visit on a regular basis and it is very possible that his mother may be moving in as she ages. Mr. Grant stated the house would be 1,804 square feet which is modest compared to other houses in the neighborhood. Mr. Grant stated the proposed garage would be 780 square feet because he restores antique cars for a hobby.

Mr. Miedzinski asked about the sand filters. Mr. Higgs stated they are similar to a dry-well but are enclosed with a non-permeable material.

Ms. Seebold read the staff report which recommended approval of the requests to disturb steep slopes, 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.

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.

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

Ms. Neale made a motion in the matter of VAAP #05-3122, having made a finding that the standards for granting a variance in the Critical Area and the objectives of Sections 71.7 and 71.8.3 of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move to approve the variance requests to disturb steep slopes, 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, subject to the following conditions:

1. ***The Applicants shall provide a Buffer Management Plan to the Department of Land Use and Growth Management for review and approval by the Environmental Planner; and***

2. *The Applicants shall adhere to the Critical Area Planting Agreement which requires mitigation at a ratio of three to one (3:1) per square foot of the variance granted. All trees and shrubs shall be native to the coastal plain of Maryland; and*
3. *The Applicants shall install sand filters for the roof water runoff.*

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

MINUTES AND ORDERS APPROVED

The minutes of October 23, 2008 were approved as recorded.

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

VAAP #08-1437 – Bacon

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

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

ADJOURNMENT

The meeting was adjourned at 7:20 p.m.

Jada Stuckert, Recording Secretary

Approved in open session: November 20, 2008

George Allan Hayden
Chairman