

**MINUTES OF THE ST. MARY'S COUNTY BOARD OF APPEALS MEETING
ROOM 14 * GOVERNMENTAL CENTER * LEONARDTOWN, MARYLAND
Thursday, November 8, 2007**

Members present were George Hayden, Chairman; Greg Callaway, Wayne Miedzinski, Ronald Delahay, and Veronica Scriber. 1st Alternate George T. Edmonds 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 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

CUAP #07-131-036 – Loveville Produce Auction

The applicant is requesting a conditional use approval to expand an existing auction house and to replace an existing dwelling with a pole utility building. The property contains 5.27 acres; is zoned Rural Preservation District; and is located at 40454 Bishop Road, Mechanicsville, Maryland; Tax Map 19, Block 13, Parcel 81.

Owner: Elmer Brubacher

The property was advertised in The Enterprise on October 24, 2007 and October 31, 2007.

Mr. Brubacher thanked the Board and staff for hearing this case. Mr. Brubacher stated with the past success of the produce auction the expansion of floor space is necessary.

Ms. Chaillet read the staff report which recommended approval. After discussion, **Mr. Callaway made a motion to accept the staff report and adopt the findings of fact contained therein as the Board's findings in this matter and Mr. Miedzinski seconded. The motion passed by a 5-0 vote.**

After further discussion, **Mr. Callaway made a motion in the matter of CUAP #07-131-036, having found that the Conditional Use Standards of Section 25.6 of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move to approve the request to construct an addition to the existing auction house and to replace an existing dwelling with a pole utility building and Mr. Miedzinski seconded. The motion passed by a 5-0 vote.**

CUAP #06-132-029 – Yoder-Stoltzfus Surface Mine, Phase 2

The applicant is requesting conditional use approval to extract natural resources beyond five (5) acres, specifically to disturb an additional 54 acres. The property contains 166 acres; is zoned Rural Preservation District; and is located at 27399 Thompson Corner Road and 27429 Thompson Corner Road, Mechanicsville, Maryland; Tax Map 11, Block 10, Parcel 11 & 33.

Owner: Reuben G. and Sarah R. Yoder and Henry R. and Mary S. Stoltzfus
Present: Mr. Robert Moreland, Reuben Yoder, and Henry Stoltzfus

The property was advertised in The Enterprise on October 24, 2007 and October 31, 2007.

Mr. Moreland called Mr. Thomas Miller to testify. Mr. Miller stated he has 31 years of experience in the gravel industry. Mr. Moreland submitted Exhibit 1: Haul Road Lease Agreement and Exhibit 2: Mineral Lease Agreement for the record. Mr. Miller testified he helped mine the Stoltzfus property in which Mr. Stoltzfus was very pleased and had no problems to comment about. Mr. Moreland called Mr. Joe Rogers to testify. Mr. Rogers stated he has 31 years of experience in the gravel industry. Mr. Rogers stated after completing the soil borings it has been determined this

site could be mined for three to five years. Mr. Rogers stated no more than 15 acres would be disturbed at any one time. Meaning five acres would be prepped, while five acres are being mined and as the process moves forward to the next section, the first five acres would be reclaimed. Mr. Rogers stated this process would be repeated until the entire 54 acres is mined and reclaimed. Mr. Moreland submitted the following exhibits for the record.

- [a] Exhibit 3: Two Photos of Reclaimed/Restored Field
- Exhibit 4: One Photo of Route 236 Approaching Site from the Right Side
- Exhibit 5: Two Photos (1) of Vehicle Passing Site from Left Side on Route 236
(2) Route 236 Site from Right Side
- Exhibit 6: Two Photos (1) Haul Road (2) Lower Portion of Haul Road
- Exhibit 7: Two Photos (1) Haul Road, Yoder Farm, Reclaimed Land (2) Yoder Farm
Reclaimed Land
- Exhibit 8: Two Photos (1) Haul Road Reclaimed Site (2) Reclaimed Land

Comment:

Mr. John Norris Jr. explained the grade and slope of the existing property compared to what it will look like when the reclamation is finished. Mr. Crissman stated there will be less than a 6% grade when the reclamation is finished. Mr. Crissman stated with this grade the owner will be able to farm the land.

Mr. Moreland submitted the following exhibits for the record.

- Exhibit 9: Letter from NG&O Engineering to Board of Appeals dated 8/23/07
- Exhibit 10: Letter from SHA to Phil Shire dated 3/16/07
- Exhibit 11: Letter from Street Traffic Studies, Ltd to Mr. John Norris dated 9/11/07

Mr. Mike Nalepa stated the MD 234/MD 236 intersection is an unsignalized "T" type intersection with a stop sign on the MD 236 approach. Mr. Nalepa stated a peak period turning movement count was conducted at the MD 234/MD 236 intersection on 9/5/07 between 7:00 and 9:00 a.m. and 4:00 and 6:00 p.m. Mr. Nalepa stated the results of the capacity analysis reveal that MD 234/MD 236 intersection is currently operating at an acceptable level of service during both the morning and evening peak hours.

Mr. Canavan noted for the record that during Mr. Moreland's presentation he used the term "special exception" interchangeably with "conditional use". Mr. Moreland agreed when he used the term "special exception" he meant "conditional use".

Mr. Moreland submitted Exhibit 12: Staff Report Dated 10/31/07 and Exhibit 13: Map Phase 2 Title Sheet, Map Phase 2 Overall Plan, Map Section A-A, Map Aerial View 11/6/07, Map Aerial View 11/8/07.

Ms. Chaillet read the staff report which recommended approval. After discussion, **Mr. Miedzinski made a motion to accept the staff report and adopt the findings of fact contained therein as the Board's findings in this matter and Mr. Callaway seconded. The motion passed by a 5-0 vote.**

After further discussion, **Ms. Scriber made a motion in the matter of CUAP #06-132-029, having found that the Standards for a Conditional Use pursuant to Section 25.6 of the Comprehensive Zoning Ordinance have been met, I move to approve the request for an extractive industry involving the mining of more than five acres with the original eighteen (18) conditions set by staff and that there will be no hauling on Saturday and a maximum of 100 truckloads per day will be hauled and Mr. Miedzinski seconded. The motion passed by a 5-0 vote.**

VAAP #06-0966 - Wood

The applicant is requesting a variance to encroach into the required lateral line setback to construct a pier. The property contains 1.40 acres; is zoned Rural Preservation district, Limited Development Area Overlay District; and is located at 49866 Gray Goose Lane, Ridge, Maryland; Tax Map 71, Block 21, Parcel 555.

Owner: David and Ann Wood

The property was advertised in The Enterprise on October 24, 2007 and October 31, 2007.

Mr. David Wood gave a brief overview of the case stating he would like to build a pier however due to the shape of the shoreline [a2] will encroach on the lateral lines.

Comment:

Mr. Sean Cox stated he is not opposed to the pier as long as he can build a pier in the future. Mr. Hayden asked if neighbor Mr. Cox would be allowed to build a pier. Ms. Chaillet stated Mr. Cox has been assured he would be allowed to build a pier even if Mr. Woods pier is approved.

Ms. Chaillet read the staff report which recommended approval. After discussion, **Mr. Callaway made a motion to accept the staff report and adopt the findings of fact contained therein as the Board's findings in this matter and Mr. Miedzinski seconded. The motion passed by a 5-0 vote.**

After further discussion, **Mr. Miedzinski made a motion in the matter of VAAP #06-0966, Wood, having found that the standards for variance and the objectives of Section 71.9.6.h of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move that the variance to encroach into the lateral line setback be approved and Mr. Callaway seconded. The motion passed by a 5-0 vote.**

VAAP #07-0138 – Melton – Paintball Facility

The applicant is requesting a variance to reduce the required 200-foot setback from a residential district boundary. The property contains 1.92 acres; is zoned Industrial District, Intensely Developed Area Overlay; and is located at 22630 Gregory Lane, Leonardtown, Maryland; Tax Map 40, Block 6, Parcel 57.

Owner: USBBA, LLC (Kyu J. Shim) – Kristopher Melton
Present: Kristopher Melton

The property was advertised in The Enterprise on October 24, 2007 and October 31, 2007.

Mr. Melton submitted Exhibit 1: Packet of information including the following:

- VAAP #07-0138 Paintball Facility Variance Justification
- Sketch Site Plan
- Paintball Netting Information
- Nine (9) Photos of the site and surrounding area

Mr. Melton stated the adventure center feels that exceeding the 200-foot setback will not hinder the nearby apartment complex. Mr. Melton explained the facility would be constructed with power line poles from SMECO and till then be surrounded with 20 foot paintball netting that will keep any projectile from exiting the court. Mr. Melton stated the arena will have a 45 foot setback from the adjoining property line with a 60 foot tall wooded buffer. Mr. Melton stated the adventure center just wants to give a safe place for the County's children to come and have fun.

Mr. Miedzinski asked about the hours of operation. Mr. Melton stated Monday through Thursday the arena would be open until 8:00 p.m., Friday and Saturday open until 10:00 p.m. and Sunday open until 8:00 p.m. Mr. Callaway stated he agrees with the idea of giving a safe place for a paintball arena however as an avid paintballer he disagrees with the location for this type of

activity. Mr. Callaway asked what the size of the teams and the range rules would be. Mr. Melton stated there would be 3 to 5 man teams and recited the range rules. Mr. Melton stated there would not be a lot of noise associated with the arena.

Mr. Callaway presented a paintball gun, unloaded, and asked if the board would like a demonstration on the noise level. The Board agreed to the demonstration. Mr. Callaway pointed the weapon to an empty chair and fired several shots. Mr. Callaway stated if there will be a maximum of 10 players on the field at one time you would probably hear rapid fire. Mr. Callaway then fired several rapid shots.

Ms. Chaillet read the staff report which recommended approval. After discussion, ***Mr. Callaway made a motion to accept the staff report and adopt the findings of fact contained therein as the Board's findings in this matter and Mr. Miedzinski seconded. The motion passed by a 5-0 vote.***

Mr. Frank Schrader submitted a petition signed by the surrounding neighbors stating the residents of Camp Calvert Road and Foxwell Point want to voice their objection to granting a variance to USBBA, LLC (Kyu J. Shim) to create an outdoor paintball facility. We feel the need for this variance was artificially created by the recent placement of this facility in a predominately residential area. We believe it is inappropriate land use and should be refused. Mr. Schrader stated we are a small, quiet, established neighborhood that pays high taxes to remain small and quiet. The lights and the noise that would invade our neighborhood would diminish both our home value and our quality of life.

After further discussion, ***Mr. Miedzinski made a motion in the matter of VAAP #07-0138, Melton, having made a finding that the standards for variance and the objectives of Section 51.3.68.b (1) of the St. Mary's County Comprehensive Zoning Ordinance have not been met, I move that the variance to reduce the required 200-foot setback from a residential district boundary for a minor outdoor recreational facility be denied and Mr. Callaway seconded. The motion passed by a 5-0 vote.***

MINUTES AND ORDERS APPROVED

The minutes of September 27, 2007 and October 11, 2007 were approved as recorded.

The Board authorized the Chair to review and sign the following orders: None
ADJOURNMENT

The meeting was adjourned at 9:00 p.m.

Jada Stuckert, Recording Secretary

Approved in open session: November 29, 2007

George Allan Hayden
Chairman