

**MINUTES OF THE ST. MARY'S COUNTY BOARD OF APPEALS MEETING  
ROOM 14 \* GOVERNMENTAL CENTER \* LEONARDTOWN, MARYLAND  
Thursday, November 29, 2007**

Members present were George Hayden, Chairman; Wayne Miedzinski, Ronald Delahay, Veronica Scriber, and 2<sup>nd</sup> Alternate Ronald Payne. Members excused were Greg Callaway and 1<sup>st</sup> Alternate George T. Edmonds. 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**

**ZAAP #06-132-017 – FDR Colonial Square Office Building**

The applicant is requesting an appeal of an administrative decision by the St. Mary's County Planning Commission in FDR Holdings, LLC to deny the Concept Site Plan for a proposed office building. The property contains .72 acres; is zoned Downtown Core Mixed Use (DMX) District; and is located at 21975 FDR Boulevard, Lexington Park, Maryland; Tax Map 43, Block 22, Parcel 83.

Owner: FDR Holdings, LLC  
Present: John Norris III, Rick Benefield and Tom Benefield

The property was advertised in The Enterprise on September 12, 2007 and September 19, 2007.

Mr. Hayden gave an overview of the September 27, 2007 meeting in which this project was continued. Mr. John Norris III gave an overview of the project stating all the requirements have been met except for the setback. Norris III stated the County cannot deprive a property owner of the right to develop its property in order to protect the alignment of FDR Boulevard when it has not been approved in accordance with Article 66B of the Maryland Annotated Code.

Ms. Christy Chesser stated the County may use procedure 66B to approve the alignments of FDR Boulevard; however, this is not the issue at hand. Ms. Chesser stated the setbacks were the reason the Planning Commission denied the concept site plan in the first place.

Mr. George Erichsen stated FDR had to be designed prior to platting, purchase of property would take place afterwards the plat is when the. Mr. Erichsen stated the center line of FDR was established through a deed mosaic. Mr. Erichsen stated he is not denying that FDR was not mapped to the requirements of 66B, but it was not required to be. Mr. Hayden asked how FDR Boulevard would benefit the County. Mr. Erichsen stated FDR has the potential to relieve 10,000 trips on Route 235 and could be an alternate route in the event of a disaster. Mr. Hayden asked how many other properties are located within the alignment of FDR. Mr. Erichsen stated at this time there is only this project. Mr. Erichsen, referring to Attachment #1 and #2 of the 9/27/07 record, explained Hampton was located in the right-of-way but this has been taken care of and other property owners have deeded rights-of-ways to the County for the alignment of FDR Boulevard.

Ms. Chaillet read the staff report which recommended upholding the administrative decision of the Planning Commission. After discussion, **Ms. Scriber 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.**

Having no public testimony Mr. Hayden closed the public hearing to public comment. Mr. Norris III gave the Board his closing comments asking that the Board overturn the Planning Commissions

decision based on the fact that FDR Boulevard was not mapped according to the standards of 66B. Ms. Chesser gave the Board her closing comments asking that the Board uphold the Planning Commissions decision.

After further discussion, ***Ms. Scriber made a motion in the matter of ZAAP #06-132-017, FDR Holdings, LLC, I move that the Board of Appeals hereby uphold the administrative decision by the St. Mary's County Planning Commission to deny the concept site plan for a proposed office building and Mr. Miedzinski seconded. The motion passed by a 4-1 vote with Mr. Delahay opposed.***

The Board requested that the Planning Commissions' records of this case be included in the record.

#### **VAAP #06-2519 - Wilkinson**

Ms. Chaillet stated staff recently discovered there is a County owned right-of-way running through this property and this may affect the setbacks. The applicant is requesting a variance from Section 32.1 of the Comprehensive Zoning Ordinance to reduce the side and rear yard setbacks. The property contains 7,361 square feet; is zoned Rural Preservation District (RPD), Limited Development Area (LDA) Overlay, and Buffer Management (BMO) Overlay; and is located at 14654 Bay Front Drive, Scotland, Maryland; Tax Map 73, Block 23, Parcel 155.

Owner: John and Susan Wilkinson  
Present: John Wilkinson

The property was advertised in The Enterprise on November 14, 2007 and November 21, 2007.

Mr. John Wilkinson stated he was only advised of the incorrect site plan today and does not understand why the right-of-way is an issue. Mr. Wilkinson stated this property has been in his family since 1969 and he only wishes to improve the house to make it livable again. Mr. Hayden asked how neighbor Mr. Christopher Aiken accesses his property. Ms. Chaillet stated the Aiken's access their property through the County owned right-of-way in which Mr. Wilkins built a fence therefore blocking access. Mr. Hayden asked why the plat is not signed. Ms. Chaillet stated Mr. Ocker did a house location only as a favor to Mr. Wilkinson. Ms. Chesser stated the County has a deed for this right-of-way. Ms. Chesser explained that staff has to review all the existing conditions on the property and the site plan provided does not include the right-of-way nor does it include the proposed house.

After further discussion, ***Mr. Miedzinski made a motion to continue the hearing to January 10, 2008 for further review by staff and Ms. Scriber seconded. The motion passed by a 5-0 vote.***

#### **VAAP #07-2595 – Haynie ATF Deck**

The applicant is requesting an after the fact variance from Section 71.8.3 of the Comprehensive Zoning Ordinance to add new impervious surface in the Critical Area Buffer with a 925 square-foot deck. The property contains 3.69 acres; is zoned Rural Preservation District (RPD), Limited Development Area (LDA) Overlay; and is located at 38810 Collinwood Drive, Abell, Maryland; Tax Map 47, Block 2, Parcel 270.

Owner: Thomas and Christine Haynie  
Present: Thomas Haynie

The property was advertised in The Enterprise on November 14, 2007 and November 21, 2007.

Mr. Haynie stated when he purchased the house there were stumps where a deck used to be. Mr. Haynie stated he rebuilt and enlarged the deck making it 37 x 25 feet. Mr. Haynie stated he did

not realize he needed a permit until he went to Land Use and Growth Management for a permit on a separate matter. Mr. Haynie submitted Exhibits A.1-18 – Photographs of the 37 x 25 deck.

Ms. Chaillet read the staff report which recommended approval. After discussion, ***Mr. Miedzinski made a motion to accept the staff report with the amendment on page 4 staff analysis (c) last sentence, replace the last four words with “would not be supported by staff”, and adopt the findings of fact contained therein as the Board’s findings in this matter and Ms. Scriber seconded. The motion passed by a 5-0 vote.***

Mr. Hayden opened the hearing to public comment, hearing none, closed the hearing to public comment. Mr. Canavan asked if it would be possible to cut ten feet off the width of the deck thus making the deck 37 x 15 which would increase the buffer between the water and the deck.

After further discussion, ***Ms. Scriber made a motion in the matter of VAAP #07-2595, Haynie, having made a finding that the standards for variance in the Critical Area and the objectives of Section 71.8.3 of the St. Mary’s County Comprehensive Zoning Ordinance have been met, I move that the variance to add new impervious surface in the 100-Foot Critical Area Buffer to construct a 925 square foot deck be approved with conditions that the Applicant reduce the size from 37 x 25 to 37 x 15 and add gravel underneath this deck and Mr. Miedzinski seconded. The motion passed by a 5-0 vote.***

#### **MINUTES AND ORDERS APPROVED**

The minutes of November 8, 2007 were approved as recorded.

**The Board authorized the Chair to review and sign the following order outside of a public meeting:**

**ZAAP #07-110-017 – Fraser Farmstead Subdivision**

#### **ADJOURNMENT**

The meeting was adjourned at 9:45 p.m.

---

Jada Stuckert, Recording Secretary

Approved in open session: December 13, 2007

---

George Allan Hayden  
Chairman