

**MINUTES OF THE ST. MARY'S COUNTY BOARD OF APPEALS MEETING
CHESAPEAKE BUILDING * LEONARDTOWN, MARYLAND
Thursday, January 8, 2015**

Members present were George Allan Hayden, Chairman; Robert Moreland, William Greene, John Brown and Ronald Payne. Alternate Wayne Miedzinski was also present. Department of Land Use & Growth Management (LUGM) staff present were Bill Hunt, Deputy-Director, Yvonne Chaillet, Zoning Administrator; and Jada Stuckert, Recording Secretary. Attorney George Sparling 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 #08-1969 – Ball Property

Ms. Yvonne Chaillet, LUGM; Mike Bailey, D.H. Steffens; and James Ball, applicant were sworn for the record. The applicant is requesting a variance to disturb the Critical Area Buffer to build a single-family dwelling. The property contains .56 acres; is zoned Residential Neighborhood Conservation (RNC) District, Limited Development Area (LDA) Overlay; and is located at 26379 fielding Road, Hollywood, Maryland; Tax Map 20B, Lot 500-10 Hollywood Shores Subdivision.

Owner: James H. Ball
Present: Mike Bailey, D.H. Steffens and Company

The property and variance request were advertised in The Enterprise on December 24, 2014 and December 31, 2014. Ms. Chaillet submitted the certification of publication, certification of property posting and mailing receipts for the record, *hereby labeled as Exhibit 1 by the Recording Secretary*. Ms. Chaillet gave an overview of the staff report dated December 19, 2014 and the applicable regulations pertaining to the application. Ms. Chaillet submitted the staff report with (4) attachments for the record, *hereby labeled as Exhibit 2 by the Recording Secretary*. Ms. Chaillet indicated the Critical Area Commission has reviewed the application and do not oppose the variance request.

Mr. Bailey gave an overview of the variance request by addressing the standards for granting variances from Chapter 71 of the Zoning Ordinance. Mr. Bailey indicated there is no attached garage on this dwelling. Ms. Chaillet indicated yes this is a flaw in the report. Chairman Hayden asked if this changes the square footage on the plans. Mr. Bailey indicated the square footage listed in the staff report is correct. Mr. Bailey provided the board with a brief history of the property indicating the size of the lot and the restrictions of the Critical Area are the cause of the need for the variance.

Mr. Moreland asked about the perennial stream on the property. Mr. Bailey indicated the stream is shown on the topography map however no stream was found on the property therefore when designing the plan a buffer was created just to meet the standards. Mr. Moreland asked if that stream was the basis for including this in the Critical Area. Mr. Bailey indicated the property is within the 1000 feet of the Patuxent River therefore it is within the Critical Area Buffer.

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

Mr. Green made a motion in the matter of VAAP #08-1969, Ball, having made a finding that the standards for granting a 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 to approve the variance request to disturb the Critical Area Buffer to construct a single-family dwelling and Mr. Moreland seconded. The motion passed by a 5-0 vote.

CUAP #14-135-002 – Patuxent River Assembly of God Property – Continued from 10/23/14

Mr. Pat Mudd of Mudd Engineering asked that the hearing be continued to the February meeting so the information recently sent to the board can be reviewed.

Mr. Moreland made a motion in the matter of CUAP #14-135-002 to continue the case to the February 12, 2015 meeting and Green seconded. The motion passed by a 5-0 vote.

VAAP #14-1771 – Masica Property

Ms. Yvonne Chaillet, LUGM and Richard Masica, applicant were sworn for the record. The applicant is requesting a variance to construct a pier within 25 feet of the extended property lines on the north and south sides of the pier. The property contains 0.88 acres; is zoned Residential Neighborhood Conservation (RNC) District, Limited Development Area (LDA) Overlay; and is located at 45261 Daniels Road, Hollywood, Maryland; Tax Map 27, Grid 17, Parcel 794.

Owner: Richard M. Masica and Leigh E. Wierichs
Present: Richard Masica

The property and variance request were advertised in The Enterprise on December 24, 2014 and December 31, 2014. Ms. Chaillet submitted the certification of publication, certification of property posting and mailing receipts for the record, *hereby labeled as Exhibit 1 by the Recording Secretary*. Ms. Chaillet gave an overview of the staff report dated December 12, 2014 and the applicable regulations pertaining to the application. Ms. Chaillet submitted the staff report with (3) attachments for the record, *hereby labeled as Exhibit 2 by the Recording Secretary*.

Chairman Hayden asked if the applicant and the board members received and had time to review the information provided by staff two days ago. Mr. Masica indicated he did and the board agreed. Mr. Moreland indicated the information submitted is hearsay and should not be included in the record nor considered as part of this application. Mr. Moreland indicated if Mr. Hatcher wants to testify at this hearing he is more than welcome but the written information submitted should not be accepted.

Mr. Moreland made a motion to remove the three written documents from the file and Mr. Brown seconded. The motion passed by a 5-0 vote.

Mr. Moreland asked who determines the lateral line on the plat defined on the plan submitted. Ms. Chaillet stated this line is set by the Department of Land Use and Growth Management. Ms. Chaillet stated after review by two Critical Area Planners, LUGM agrees with the location of the lateral line depicted on the Nogleby plat.

Mr. Masica gave a brief overview of the property indicating the property was originally two lots that were combined prior to him purchasing the property. Mr. Masica indicated great care was taken in developing this plan in order to reduce the impact to the neighbors and the environment. Mr. Masica indicated that Maryland Department of the Environment set the rule that there had to be a 10 foot setback. Mr. Masica indicated the curvature of his lot is rather unique and he will not be blocking any direct access of his neighbor's pier.

Chairman Hayden opened the hearing to public comment.

Amy Conway Hatcher and Charles S. Hatcher were sworn for the record. Mr. and Mrs. Hatcher apologized for submission of materials that were removed from the record. Chairman Hayden indicated most of what was submitted was opinion rather than factual. Ms. Hatcher stated she has hired and is working with Mr. Redman who couldn't be here and his testimony is imperative to this hearing. Ms. Hatcher asked for a continuance to the February meeting so that Mr. Redman could be present.

Mr. Moreland, if they have gone through the trouble of hiring an expert then he would like to hear that testimony.

Mr. Payne asked if there was anything out of the ordinary to have the hearing scheduled for this day. Ms. Chaillet indicated the Hatchers have known for 2 years that Mr. Masica planned to build a pier on the property. Mr. Sparling indicated the issue is that the expert witness they hired is unavailable for tonight's hearing. Mr. Payne questioned why a representative from D.H. Steffens could not be present tonight and his opinion is that this is highly irregular and he does not support a continuance or recess.

Chairman Hayden asked how Mr. Masica felt about continuing or recessing the case. Mr. Masica indicated the notification of the hearing was set forth and preformed per the requirements of the ordinance. Mr. Masica indicated he would like to move forward tonight and is not in favor of a continuance or recess.

Chairman Hayden asked the board if they would like to recess this hearing to the February meeting and the majority indicated yes they would like to recess.

Mr. Moreland made a motion to recess the hearing to the February 12, 2015 meeting and Mr. Brown seconded. The motion passed by a 4-1 vote with Mr. Payne opposed.

MINUTES AND ORDERS APPROVED

The minutes of October 23, 2014 were approved as recorded.

The Board authorized the Chair to review and sign the following orders:
VAAP #11-0632 – Miluski Property

ADJOURNMENT

The meeting was adjourned at 8:30 p.m.

Jada Stuckert, Recording Secretary

Approved in open session: February 12, 2015

George Allan Hayden
Chairman