

**MINUTES OF THE ST. MARY'S COUNTY BOARD OF APPEALS MEETING
CHESAPEAKE BUILDING * LEONARDTOWN, MARYLAND
Thursday, April 8, 2010**

Members present were Howard Thompson, Chairman; Wayne Miedzinski, Randy Guy, Veronica Neale, and Ronald Payne. George Edmonds was absent. Department of Land Use & Growth Management (LUGM) staff present were 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 #09-1349 - Wilson

The applicant is requesting variance to encroach into the required lateral line setback to construct a pier. The property contains 10,140 square feet; is zoned Residential Neighborhood Conservation (RNC) District; and is located at 35784 Bay Drive, Chaptico, Maryland; Tax Map 22A, Lot 4 of the Mill Point Shores Subdivision.

Owner: Leslie Wilson and Sharron Hill-Wilson

The property and variance were advertised in The Enterprise on March 24, 2010 and March 31, 2010. Ms. Chaillet submitted the 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 and the General Standards for Granting Variances in Section 24.3 of the Ordinance. Ms. Chaillet submitted the staff report dated April 1, 2010 including three attachments for the record, *hereby labeled as Exhibit 2 by the Recording Secretary*. Mr. Guy asked if lot 3 has a pier next to this pier. Ms. Chaillet stated no. Ms. Chaillet submitted six photos and one color property map for the record, *hereby labeled as Exhibit 3 by the Recording Secretary*.

Ms. Wilson stated the property belonged to her parents who after their passing left the property to her and her husband. Ms. Wilson explained in October 2008 damage was done to the pier in a storm. Ms. Wilson stated she and/or her parents had ever obtained a permit for the pier simply because they did not know to do so. Mr. Wilson stated they did not replace the pier they simply repaired and changed the layout of the dock. Mr. Thompson asked when the last survey of the property was done. Ms. Wilson stated she has never paid for a survey and is unsure of the date of any surveys that exist.

Mr. Miedzinski asked how long the Wilson's have owned the property. Ms. Wilson stated they have owned it since June 2009 but the property has been in the family for 60 years. Mr. Miedzinski asked if we have a copy of the Graves letter for the record. Mr. Sparling indicated the Graves letter did not pertain to this case at this point in time and should not be submitted as part of the record.

Mr. Guy asked if there are any photos of the old pier. Ms. Chaillet stated the sketch plan shows the old pier. Ms. Wilson stated it is the same pier except they flipped it away from the abutting property line. Mr. Miedzinski asked if the applicants had obtained the proper permit would they have been able to build the pier. Ms. Chaillet stated yes however, they would have had to move the pier to comply with the Ordinance.

Mr. Sparling asked what the parcel of record is. Ms. Chaillet stated lot 4. Mr. Sparling asked what the width of lot 4 is. Ms. Chaillet stated no site plan was submitted by the application however by LUGM's records the property is approximately 63 feet measuring from the GIS database. Mr. Sparling asked when the replacement pier was constructed. Mr. Wilson stated November of 2008. Mr. Sparling asked if approval was received from Army Corps of Engineers. Ms. Chaillet

stated MDE and the Army Corps of Engineers approvals were received in July 20, 2009. Ms. Chaillet stated it was October 2008 when inspections found out about the violation but the property owner did not come in for a permit until June 2009.

Mr. Thompson opened the hearing to public comment. Ms. Elizabeth Johnson asked if she should testify to the ownership. Mr. Sparling recommended against this. Ms. Johnson stated she objects to the variance because the piers movement devalues her property. Ms. Johnson stated the pier is still in the lateral setback and laws are not made to be broken. Ms. Johnson stated she objects because she does what effect the encroachment has on her property. Ms. Johnson submitted a photo of the pier taken from the water for the record, *hereby labeled as Exhibit 4 by the Recording Secretary*. Ms. Johnson stated all the pilings on her side have been removed. Ms. Johnson stated that the "L" portion was always facing the Wilson's property. Ms. Johnson stated she has been paying taxes on the pier for years as it is on her assessment. Ms. Johnson submitted a picture of the pier dated October 3, 2009 for the record, *hereby labeled as Exhibit 5 by the Recording Secretary*.

Mr. Thompson closed the hearing to public testimony. Ms. Wilson stated having spoken with Ms. Johnson she has always acknowledged the pier does not belong to her. Mr. Sparling stated ownership or property rights have no bearing on this case at this time.

Mr. Payne asked what staff's position is on this case. Ms. Chaillet stated she did not address the standards as this is the job of the Board however in her professional opinion the applicants do not meet the standards for variance.

After discussion the Board made their findings of fact based on the testimony received and as written in the official order.

Mr. Miedzinski made a motion in the matter of VAAP #09-1349, having made a finding that the standards for granting a variance and the objectives of Section 71.9.6 of the St. Mary's County Comprehensive Zoning Ordinance have not been met, I move to deny the variance request to reduce the lateral line setback from 25 feet to six feet and Mr. Guy seconded. The motion passed by a 4-1 vote with Mr. Thompson opposed.

MINUTES AND ORDERS APPROVED

The minutes of February 25, 2010 were approved as recorded.

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

VAAP #09-135-002 – Bethune Public Safety Tower

VAAP #08-132-011 – McDonald's

ADJOURNMENT

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

Jada Stuckert, Recording Secretary

Approved in open session: April 22, 2010

Howard Thompson
Chairman