

**MINUTES OF THE ST. MARY'S COUNTY BOARD OF APPEALS MEETING
CHESAPEAKE BUILDING * LEONARDTOWN, MARYLAND
Thursday, April 14, 2011**

Members present were Howard Thompson, Chairman; Wayne Miedzinski, Randy Guy, 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; 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

ZAAP #08-2359 – Drift Inn Sign Appeal – Cont. from 3/24/11

Mr. Thompson stated this case is continued from March 24, 2011 where the Board continued the hearing to receive advice from Legal Council regarding the relevancy of LUGMs mistake as it pertains to the Board's decision. Mr. Sparling explained his March 25, 2011 memo stating the question posed by the Board was whether the acknowledged mistake by LUGM in issuing the permit for a sign that is clearly not permitted by the CZO is a basis for reversing the decision of the Planning Director to revoke the permit, and a basis to permit the sign to remain. Mr. Sparling stated the answer to this question is no.

Ms. Neale asked what the advantages and disadvantages of allowing the sign would be. Mr. Thompson stated the size and location of the sign seem to be the problem. Mr. Guy stated he feels this sign is a directional sign, however any other information on the sign should be removed. Mr. Guy stated he supports the applicant keeping the sign. Mr. Sparling stated a directional sign is limited to 12 square feet and this particular sign is more than 64 square feet. Mr. Guy stated he would support allowing the sign as long as all information other than directional information is removed. Mr. Miedzinski stated the applicant now owns the property and should be allowed to move the sign within his own property. Mr. Sparling stated the content of the sign cannot be considered due to first amendment laws considering this is not a variance case. Mr. Miedzinski stated he would be okay with allowing the original 64 square foot sign. Ms. Neale stated she would like to see him have the sign however the rules must be met. Mr. Thompson stated he is okay with having the sign however he has issues with how large the sign is and the amount of other signs in the area.

Mr. Sparling advised the Board that this is an appeal, not a variance case. Mr. Sparling stated it would be very hard to produce a proper order to allow the sign. Mr. Thompson asked if the Board upholds the Planning Director's decision could the applicant then come before the Board with a variance request. Mr. Sparling stated yes, the applicant could in fact apply for a variance to allow the sign.

Mr. Miedzinski made a motion in the matter of ZAAP #08-2359, Drift Inn Sign Appeal, I move that the Board of Appeals uphold the Planning Director's decision that the subject off-site advertising sign was permitted in error because it did not comply with the Comprehensive Zoning Ordinance and Mr. Edmonds seconded. The motion passed by a 5-0 vote.

Mr. Sparling provided the Board with draft findings of fact.

BREAK

Mr. Miedzinski amended his previous motion to include the findings of fact provided by the County Legal Department. Mr. Sparling accepted the amendment and the motion passed by a 5-0 vote.

VAAP #10-2140 – Leonardtown Middle School Sign

Ms. Yvonne Chaillet, LUGM was sworn for the record. The applicant is requesting variance to increase the square footage of a freestanding sign in the RL District. The property contains 121.08 acres; is zoned Residential, Low-Density District (RL); and is located at 24015 Point Lookout Road, Leonardtown, Maryland; Tax Map 41, Grid 14, Parcel 194.

Owner: St. Mary's County Board of Education
Present: Larry Hartwick, SMCPs

The property and variance were advertised in The Enterprise on March 30, 2011 and April 6, 2011. 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 April 4, 2011 and the general standards for granting variances, regulations for on-premise signs, and freestanding signs. Ms. Chaillet submitted the staff report for the record, *hereby labeled as Exhibit 2 by the Recording Secretary*.

Mr. Larry Hartwick, SMCPs was sworn in for the record. Mr. Hartwick concurred with staff's analysis in this matter. Mr. Hartwick showed three photos of local school signs. Mr. Miedzinski asked if the same materials as the renovation are being used. Mr. Hartwick stated yes.

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

Ms. Neale made a motion in the matter of VAAP #10-2140, Leonardtown Middle School Sign, having made a finding that the standards for granting a variance and the objectives of Section 65.3 of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move to approve the variance request to increase the square footage of a freestanding sign in the RL District and adopt paragraphs 1, 2, and 3 of Section 5 of the staff report as findings of fact in this case and Mr. Miedzinski seconded. The motion passed by a 5-0 vote.

VAAP #11-0028 – Village Hair Boutique

Ms. Yvonne Chaillet, LUGM was sworn for the record. The applicant is requesting variance to increase the allowed square footage of a home occupation. The property contains 1.14 acres; is zoned Residential Low-Density District (RL); and is located at 28055 Old Village Road, Mechanicsville, Maryland; Tax Map 9 Grid 13, Parcel 106.

Owner: Jon and Lindsey DePompa
Present: Jon DePompa

The property and variance were advertised in The Enterprise on March 30, 2011 and April 6, 2011. 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 April 4, 2011 and the general standards for granting variances, use regulations and standards, and home occupation. Ms. Chaillet submitted the staff report for the record, *hereby labeled as Exhibit 2 by the Recording Secretary*. Ms. Chaillet submitted a letter dated April 1, 2011 from Charles and Renee Thompson supporting the variance request for the record, *hereby labeled as Exhibit 3 by the Recording Secretary*.

Mr. Edmonds clarified that the applicant is not asking to expand the size of the salon they are simply asking for permission to use the space as it is. Ms. Chaillet stated yes.

Mr. Jon DePompa was sworn in for the record. Mr. DePompa stated he concurs with staff's analysis of this request. Mr. Miedzinski asked if there is any entrance to the salon from the inside of the house or garage. Mr. DePompa stated no, the entrance is an exterior door only.

Chairman Thompson opened the hearing to public comment.

Mr. James L. Mattingly III

Mr. Mattingly stated he fully supports the DePompa's in their request for this variance.

Chairman Thompson closed the hearing to public comment.

Mr. Edmonds made a motion in the matter of VAAP #11-0028, Village Hair Boutique, having made a finding that the standards for granting a variance and the objectives of Section 51.3.116 of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move to approve the variance to increase the allowed square footage of a home occupation and adopt paragraphs 1, 4, and 5 of Section 5 of the staff report as findings of fact in this case and Mr. Guy seconded. The motion passed by a 5-0 vote.

MINUTES AND ORDERS APPROVED

The minutes of March 24, 2011 were approved as recorded.

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

VAAP #10-110-030 – Remenira Subdivision

ADJOURNMENT

The meeting was adjourned at 7:40 p.m.

Jada Stuckert, Recording Secretary

Approved in open session: April 28, 2011

Howard Thompson
Chairman