

**MINUTES OF THE ST. MARY'S COUNTY BOARD OF APPEALS MEETING  
CHESAPEAKE BUILDING \* LEONARDTOWN, MARYLAND  
Thursday, May 19, 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 Brian Dugan was also present as Attorney for the Board.

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 6:34 p.m.

**PUBLIC HEARINGS**

**Vergheese Nonconforming Use Status (Continued from April 28, 2011)**

Ms. Chaillet stated the property and variance request were advertised in The Enterprise on May 4, 2011 and May 11, 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. Yvonne Chaillet, LUGM was sworn for the record. Ms. Chaillet re-stated for the record that the property and variance request were advertised in The Enterprise on May 4, 2011 and May 11, 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 stated the applicant is requesting a determination as to the status of a nonconforming use following a remanded by the Circuit Court of St. Mary's County to take sworn evidence consistent with the Court's opinion vacating the St. Mary's County Board of Zoning Appeals' decision on November 19, 2009 regarding the bounds of a nonconforming use. The property contains 20,800 square feet; is zoned Residential Neighborhood Conservation (RNC) District; and is located at 22237 Bayside Road, Compton, Maryland; Tax Map 39B, Grid 23, Parcel 10.

Owner: Kannarkat P. Vergheese, M.D.  
Present: John B. Norris, III

Ms. Chaillet gave an overview of the staff report dated May 11, 2011 and the regulations for appeals and nonconforming uses. Ms. Chaillet submitted the staff report with thirteen (13) attachments of the record, *hereby labeled as Exhibit 2 by the Recording Secretary.*

Mr. Norris, III submitted a 3-ring binder entitled Mattingly's Auto Racing & Repair Board of Appeals Case Number #08-2220 containing 259 pages for the record, *hereby labeled as Exhibit 3 by the Recording Secretary and referenced by page number.* [Pages 000001 and 000015 were stricken from the record due to their non-readability] [Tabs 9 & 10 were stricken from the record at the request of Brian Dugan and agreed upon by John B. Norris III]

Mr. John Norris, III questioned Ms. Chaillet on her testimony including the basis for the Circuit Court Appeal, the owner of the Property, salvage yard and auto racing and repair usage, employment history, and site visit history. Mr. Dugan stated he does not believe that the salvage/junkyard is an issue here tonight. Mr. Dugan explained and stated the appeal is based on the auto racing and repair business only. Mr. Norris, III rebutted stating the fact that it looks like a salvage/junkyard is not in question tonight, it's how the property has historically been used. Mr. Dugan clarified that the issue is a nonconforming use for an auto racing and repair shop.

Mr. Norris, III continued questioning Ms. Chaillet referencing pages 176, 177, 178, 179, 180 and 181 of Exhibit 3 asking if the Department found any reason to consider these affidavits falsified. Mr. Dugan stated whether the evidence is true or false is not the case here because the evidence was given the weight it deserved and it was included in the record. Ms. Chaillet stated there is

nothing within the Departments record that would indicate whether or not these statements are true or false.

Mr. Dugan referenced staff report attachment six (6) as quoted, "I will entertain additional evidence you may possess should it conclusively establish activity on your property of the nature of a NCU under Zoning Ordinance 78-43 or any lawfully existing permits from same Zoning Ordinance that could conclude said NCU per Zoning Ordinance 90-11. I formally request that such a submission be made with all information, per § 60.14 (attached) by not later than December 25, 1991 in accordance with said section." Mr. Dugan asked if any tax records, business or other licenses, and /or surveys were submitted to the Department prior to December 25, 1991. Ms. Chaillet stated no, none of these documents were submitted to the Department.

## **RECESS**

Mr. Norris, III submitted a Field Run Planimetric Survey for the record, *hereby labeled as Exhibit 4 by the Recording Secretary*. Mr. Norris, III called the following witnesses.

Dr. Verghese was sworn for the record. Dr. Verghese testified that he took his car to Mr. Mattingly in 1992 where he met John Mattingly. Dr. Verghese testified he does in fact own the property; however, Mr. Zack Mattingly manages the properties and runs his business on the property. Dr. Verghese stated for the record that Mr. John Norris, III and Mr. Zack Mattingly could act on his behalf. Mr. Norris, III submitted a signed affidavit allowing Zack Mattingly to act on Verghese LLC behalf at Board of Appeals hearings for the record, *hereby labeled as Exhibit 5 by the Recording Secretary*.

Ms. Anne Shotwell was sworn for the record. Ms. Shotwell testified that the auto racing and repair business has been there for as long as she can remember. Ms. Shotwell clarified on the survey where the house and shops are located. Ms. Shotwell stated the shop was attached to the house in approximately 1974. Ms. Shotwell stated there were two other sheds on the property and they stored cars on the property.

Mr. Adam Smith was sworn for the record. Mr. Smith testified he has gone to the property to learn about auto mechanics. Mr. Smith stated he first visited the property approximately a year or so ago and that it has been used consistently. Mr. Smith stated he has witnessed cars that come and go and ones that stay for awhile.

Mr. Kevin Taylor was sworn for the record. Mr. Taylor located the "shop" on the survey and marked it with a green "X". Mr. Taylor stated he remembers the old cars being used for parts on the race cars and that the auto repair business existed in 1972. Mr. Taylor stated he does recall cars being stored on lots 6-10 and that nothing has changed on the property since the 70's.

Mr. Robert Romanowitz was sworn for the record. Mr. Romanowitz testified he has lived on the northern abutting property for approximately a year and that the repair shop has not bothered him.

Mr. Blake Biggers was sworn for the record. Mr. Biggers testified he takes his car to the Mattingly repair shop for repairs to his personal vehicle and to learn the mechanic trade. Mr. Biggers testified he has known the Mattingly family for the past two years and that the use of the property has not changed during this time.

Mr. Cody Mattingly was sworn for the record. Mr. Mattingly testified he has lived on the property for almost 17 years. Mr. Mattingly stated he has worked on cars on the property in the shop stating this is a learning facility for him. Mr. Mattingly stated the use of the property has not changed in the past 17 years and that his father uses parts from the spare cars on the race cars being repaired. Mr. Mattingly stated he has witnessed his father working on other peoples cars for money and that some of the older cars sit on the property for a year or so. Mr. Mattingly stated

the average number of cars on the property is around 15-20 and they are used mostly for parts. Mr. Mattingly stated the area outlined in blue on the survey has always been used for racing and repairs.

Ms. Diane Deavers was sworn for the record. Ms. Deavers testified she wrecked her car in February and Mr. Zack Mattingly is in the process of fixing the car. Ms. Deavers stated her Mazda Miata is a special edition and parts are hard to find. Ms. Deaver stated cars are stored along the fence line, along the side of the shop, and in the yard area.

Ms. Adair Stewart was sworn for the record. Ms. Stewart stated she is Zack Mattingly's daughter and lived on the property which is noted as a 1 story brick house on the survey. Ms. Stewart stated in the late 80's the entire space was used for the business. Ms. Stewart stated she first recalls the property in 1986-1987 and the shop was used for fixing race cars or repairing cars. Ms. Stewart stated she sees more cars on the property now that they've been cleared out of the woods.

***Mr. Miedzinski made a motion to continue the case to July 14, 2011 and Mr. Edmonds seconded. The motion passed by a 5-0 vote.***

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

No meeting minutes were submitted for approval at this time.

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

None

#### **ADJOURNMENT**

The meeting was adjourned at 9:49 p.m.

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Jada Stuckert, Recording Secretary

Approved in open session:      May 26, 2011

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Howard Thompson  
Chairman