

**MINUTES OF THE ST. MARY'S COUNTY BOARD OF APPEALS MEETING
CHESAPEAKE BUILDING * LEONARDTOWN, MARYLAND
Thursday, May 26, 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 6:32 p.m.

PUBLIC HEARINGS

VAAP #11-0437 - Converse

Ms. Yvonne Chaillet, LUGM was sworn for the record. The applicant is requesting a variance to disturb the Critical Area Buffer to construct porches. The property contains 21,600 square feet; is zoned Rural Preservation District, Limited Development Area (LDA) Overlay; and is located at 17855 River Shore Drive, Tall Timbers, Maryland; Tax Map 65, Grid 2, Parcel 228.

Owner: Mark and Melissa Converse
Present: Mark Converse

The property and variance request were advertised in The Enterprise on May 11, 2011 and May 18, 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 dated May 18, 2011 and the specific standards for granting variances in the critical area and the 100-foot critical area buffer. Ms. Chaillet submitted the staff report for the record, *hereby labeled as Exhibit 2 by the Recording Secretary*.

Mr. Mark Converse was sworn for the record. Mr. Converse gave a brief overview of the request to build two additional decks on the house. Mr. Miedzinski asked if these would be covered porches. Mr. Converse stated yes, they would be covered. Mr. Miedzinski stated there is no door on the rear of the house which faces the street. Mr. Converse stated this is correct there is no door there. Mr. Converse stated the window will be renovated into a door and showed this on the site plan labeled as Exhibit 2, Attachment 5. Mr. Thompson asked if Mr. Converse is satisfied with the planting agreement. Mr. Converse stated he is satisfied.

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

Mr. Sparling provided proposed findings for this case. After review, ***Ms. Neale made a motion to accept the proposed findings as findings of fact for this case and Mr. Miedzinski seconded. The motion passed by a 5-0 vote.***

Mr. Guy made a motion in the matter of VAAP #11-0437, Converse, 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 two porch additions to an existing dwelling, subject to the following conditions:

- 1. The Applicant shall provide a Planting Plan prior to the issuance of the building permit, which shows the required 3:1 mitigation per square foot of the variance granted pursuant to Section 24.4.2 of the Ordinance. The Planting Plan shall show which native species have been selected for planting, and where in the Critical Area Buffer the Applicant proposes to plant the vegetation.***
- 2. The Applicant shall comply with the Critical Area Planting Agreement and approved Planting Plan.***

Mr. Miedzinski seconded and the motion passed by a 5-0 vote.

VAAP #09-110-009 – Brown Subdivision

The applicant is requesting a variance to increase the residential density in the Rural Preservation District (RPD) to subdivide a one-acre parcel. The property contains 1.10 acres; is zoned Rural Preservation District; and is located at 28868 Thompson Corner Road, Mechanicsville, Maryland; Tax Map 4, Grid 21, Parcel 435.

Owner: Dwight C. Brown and Joyce E. Brown Young
Present: William P. Higgs, LSR, Inc.

The property and variance request were advertised in The Enterprise on May 11, 2011 and May 18, 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 dated May 16, 2011 and the general standards for granting variances and the development standards. Ms. Chaillet submitted the staff report for the record, *hereby labeled as Exhibit 2 by the Recording Secretary*. Ms. Chaillet provided the members with a three (3) page petition signed by persons in support of the subdivision for the record, *hereby labeled as Exhibit 3 by the Recording Secretary*.

William Higgs was sworn for the record. Mr. Higgs summarized the standards for granting the variance as written in Exhibit 2, Attachment 1. Mr. Sparling stated it is the opinion of the Legal Department that his is a permissible relief of the Ordinance.

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

Mr. Dwight Brown was sworn for the record. Mr. Miedzinski asked if Mr. Brown planned to live in this house. Mr. Brown stated yes.

Mr. Sparling provided proposed findings for this case. After review, ***Ms. Neale made a motion to accept the proposed findings as findings of fact for this case and Mr. Guy seconded. The motion passed by a 5-0 vote.***

Ms. Neale made a motion in the matter of VAAP #07-110-009, Brown Subdivision, having made a finding that the standards for granting a variance and the objectives of Section 32.1 of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move to approve the variance request to increase the base residential density in the Rural Preservation District from one dwelling unit per five acres to one dwelling unit per one acre and Mr. Miedzinski seconded. The motion passed by a 5-0 vote.

CUAP #11-135-001 – Morganza Cell Tower

The applicant is requesting conditional use approval to construct a commercial communication tower. The property contains 43.69 acres; is zoned Rural Preservation District; and is located at 39905 Williams Farm Lane, Loveville, Maryland; Tax Map 18, Grid 18, Parcel 8.

Owner: Raymond C. and Linda A. Williams; (Applicant) Telecom Capital Group, Inc
Present: Ms. Jackie Meiser

The property and conditional use request were advertised in The Enterprise on May 11, 2011 and May 18, 2011.

Ms. Chaillet was sworn for the record. 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 dated May 2, 2011 and the standards for granting conditional uses, use classifications, use types and location within zoning districts, and communication towers commercial. Ms. Chaillet submitted the staff report for the record, *hereby labeled as Exhibit 2 by the Recording Secretary*.

Ms. Meiser submitted a folder containing cellular coverage maps, 2.4 GHZ coverage maps, photograph address/description page, and 13 photographs for the record, hereby *labeled as Exhibit 3 by the Recording Secretary*. Ms. Meiser summarized the standards for granting a conditional use and referenced Exhibit 3-C which corresponds with the following photographs. [Each page inventoried by the Recording Secretary for the record.]

Ms. Neale asked if the applicant owns the road. Ms. Meiser stated no, the owner of the property owns the road but has signed a lease with the applicant for a period of 45 years.

Chairman Thompson opened the hearing to public comment.

Mr. George Young was sworn for the record. Mr. Young stated his family owns property adjoining the property in question. Mr. Young asked if there could possibly be another tower placed on this site at a later time. Mr. Thompson stated he does not believe the applicant can answer this question as towers come only when needed to service a particular area. Ms. Meiser stated in this case there is another existing tower within 1.26 miles away. Ms. Meiser stated unfortunately this tower is not able to cover the area we are proposing to cover. Ms. Meiser pointed out the proposed service area on Exhibit 3A and 3B.

Chairman Thompson closed the hearing to public testimony. Mr. Sparling recommended postponing the findings of fact to the next meeting to allow him time to compile them.

Mr. Miedzinski made a motion in the matter of CUAP #11-135-001, Morganza Cell Tower, having made a finding that the standards for granting a conditional use and the objectives of Section 51.3.91 of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move to approve the request to construct a commercial communication tower at a height of 180 feet above sea level, subject to the following conditions.

Mr. Sparling recommended holding off on making the motion for this case until the findings of fact have been submitted and approved by the Board.

It was the consensus of the Board, and agreed upon by applicant legal council, that CUAP #11-135-001 Morganza Cell Tower will be approved upon accepting the findings of fact at the June 23, 2011 meeting.

MINUTES AND ORDERS APPROVED

The minutes of May 12, 2011 and May 19, 2011 were approved as recorded.

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

None

ADJOURNMENT

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

Jada Stuckert, Recording Secretary

Approved in open session: June 23, 2011

Howard Thompson
Chairman