

**MINUTES OF THE ST. MARY'S COUNTY BOARD OF APPEALS MEETING
CHESAPEAKE BUILDING * LEONARDTOWN, MARYLAND
Thursday, September 12, 2013**

Members present were George Allan Hayden, Chairman; Randy Guy, Robert Moreland, William Greene, and Ronald Payne. Alternate John Brown was also present. Department of Land Use & Growth Management (LUGM) staff present were Bill Hunt, Deputy Director; Yvonne Chaillet, Zoning Administrator; Carrie Ann Heinz, Environmental Planner; 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 #12-2275 - Rice

Ms. Carrie Ann Heinz, LUGM was sworn for the record. The applicant is requesting a variance to disturb the Critical Area Buffer and a variance to reduce the side yard setback on the south side of the property to construct a replacement single-family dwelling. The property contains 18,000 square feet; is zoned Rural Preservation District, Resource Conservation Area (RCA) Critical Area Overlay; and is located at 14524 E. Way Drive, Scotland, Maryland; Tax Map 73A, Grid 22, Lots 95 and 96.

Owner: Howard Michael and Georgette Rice

The property and variance request were advertised in The Enterprise on August 28, 2013 and September 4, 2013. 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 September 4, 2013 and the general standards for granting variances, specific standards for granting variances in the critical area, the 100-foot critical area buffer and the development standards. Ms. Chaillet submitted the staff report for the record, *hereby labeled as Exhibit 2 by the Recording Secretary*.

Howard Rice was sworn for the record. Mr. Rice gave an overview of the requested variance and addressed the standards. Mr. Moreland noted the circular home looks to be smaller than the original home however the staff report indicates there is an increase in lot coverage. Mr. Rice stated the decking is what increases the lot coverage.

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

Mr. Guy made a motion in the matter of VAAP #12-2275, Rice, 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 replacement single-family dwelling and Mr. Moreland seconded. The motion passed by a 5-0 vote.

Mr. Guy made a motion in the matter of VAAP #12-2275, Rice, 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 reduce the side yard setback on the south side of the property and Mr. Greene seconded. The motion passed by a 5-0 vote.

VAAP #13-0908 - Felps

Ms. Carrie Ann Heinz, LUGM was sworn for the record. The applicant is requesting a variance to exceed the lot coverage limit to construct a shed and walkways in the Critical Area. The property contains 29,555

square feet; is zoned Rural Preservation District, Limited Development Area (LDA) Critical Area Overlay; and is located at 47877 Waterview Drive, St. Inigoes, Maryland; Tax Map 63, Grid 21, Parcel 169.

Owner: Michael and Delia Felps

The property and variance request were advertised in The Enterprise on August 28, 2013 and September 4, 2013. 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 September 4, 2013 and the specific standards for granting variances in the critical area and the site development standards. Ms. Chaillet submitted the staff report for the record, *hereby labeled as Exhibit 2 by the Recording Secretary*.

Mr. Greene asked if the property is located in St. Inigoes or Mechanicsville. Ms. Heinz indicated there was a revised map emailed to the members prior to the meeting and the property is located in St. Inigoes. Mr. Hayden noted for the record that members of the board did not receive a revised map.

Ms. Delia Felps was sworn for the record. Ms. Felps indicated she was unaware that her property was over the allowed lot coverage limit. Ms. Felps provided a table explaining the lot coverage and ideas for meeting the requirement of the Critical Area for the record, *hereby labeled as Exhibit 3 by the Recording Secretary*. Ms. Felps referenced Staff Report Attachment 4 indicating the pavers will be used to keep the hot tub stable. Ms. Heinz indicated the hot tub and pergola permit was issued on the premise that the 10 x 20 shed would be removed.

Ms. Yvonne Chaillet, Zoning Administrator was sworn for the record. Ms. Chaillet stated if the board chooses to allow the applicant to keep the 10 x 12 shed the June permit would be invalid being it was offered as a trade.

Mr. Moreland asked the applicant to very simply explain what she is proposing tonight. Ms. Felps stated she is asking for the 10 x 12 shed, 456 square feet of pavers, and 75 square feet of walkway.

Mr. Payne referenced Staff Report Attachments 4 and 6 asking where the 10 x 12 shed is located on the site plan. Ms. Heinz indicated the location of the shed on Attachment 6. Mr. Hayden asked how much lot coverage the applicant is allowed to have on the property. Ms. Chaillet indicated the total allowed is 5,445 square feet.

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

Mr. Payne stated the laws in the Critical Area get more and more stringent every year however this property is already well over its lot coverage limit therefore he cannot support the variance request. Mr. Moreland stated he has not heard any testimony tonight that indicates this variance will adversely affect fish, wildlife, water quality, or the surrounding community. Mr. Greene asked how the property exceeded its lot coverage. Ms. Heinz stated there are no records with the Department of Land Use and Growth Management. Mr. Guy asked if there are any regulations pertaining to pervious pavers. Ms. Chaillet indicated no, even if they're pervious pavers the state looks at them as lot coverage. Mr. Hayden indicated he is looking for the applicant to trade some of the lot coverage to lower the total amount. Ms. Felps asked for a continuance to re-evaluate their request.

Mr. Guy made a motion in the matter of VAAP #13-0908, Felps, to continue the case to the October 10, 2013 meeting and Mr. Greene seconded. The motion passed by a 5-0 vote.

CUAP #12-131-020 – Kronlund Pit, Phase II, Farmstead 1

Mr. Sparling reminded the Board that the law regarding surface mining in Maryland has changed and most regulations are handled by the Department of the Environment. Mr. Sparling indicated he is at a loss for legal advice as it is not clear what authority the Board has in approving these cases.

Jerry Soderberg of D.H. Steffens was sworn for the record. Chairman Hayden asked Mr. Soderberg for his opinion. Mr. Soderberg stated he needs the conditional use approval before he can move forward to the Department of the Environment.

Bill Hunt was sworn for the record. Mr. Hunt indicated the ordinance says this would be a minor site plan. Mr. Soderberg agreed.

Ms. Yvonne Chaillet, LUGM was sworn for the record. The applicant is requesting a conditional use approval to mine 7.77 acres. The property contains 46.51 acres; is zoned Rural Preservation District; and is located at 28255 Briscoe Anderson Lane, Mechanicsville, Maryland; Tax Map 08, Grid 16, Parcel 74.

Owner: John L. and Rebecca D. Stoltzfus
Present: Jerry Soderberg, D.H. Steffens Company

The property and conditional use request were advertised in The Enterprise on August 28, 2013 and September 4, 2013. 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 submitted the staff report for the record, *hereby labeled as Exhibit 2 by the Recording Secretary*.

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

Mr. Moreland made a motion in the matter of CUAP #12-131-020, Kronlund Pit, having made a finding that the standards for granting a conditional use and the objectives of Section 51.3.82 of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move to approve the request to mine 7.7 acres of sand and gravel at the location indicated with the condition that the applicant obtains appropriate site plan approval and Mr. Guy seconded. The motion passed by a 5-0 vote.

MINUTES AND ORDERS APPROVED

The minutes of August 8, 2013 were approved as recorded.

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

ZAAP #12-1017 - Mattingly
ZAAP #13-140-001 - Masteller

ADJOURNMENT

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

Jada Stuckert, Recording Secretary

Approved in open session: October 10, 2013

George Allan Hayden
Chairman