

**MINUTES OF THE ST. MARY'S COUNTY BOARD OF APPEALS MEETING
CHESAPEAKE BUILDING * LEONARDTOWN, MARYLAND
Thursday, October 23, 2014**

Members present were George Allan Hayden, Chairman; Randy Guy, Robert Moreland, and Ronald Payne. William Green and Alternate John Brown were excused. Department of Land Use & Growth Management (LUGM) staff present were Bill Hunt, Deputy Director; 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 #11-0632 – Miluski Property

Ms. Yvonne Chaillet, LUGM was sworn for the record. The applicant is requesting a variance to disturb the Critical Area Buffer, to construct a detached garage and additions to an existing single-family dwelling. The property contains 1.57 acres or 68,389 square feet (66,939 square feet of fastland); is zoned Residential Low-Density (RL) district, Resource Conservation Area (RCA) Overlay; and is located at 17674 Driftwood Drive, Tall Timbers, Maryland; Tax Map 65, Grid 3, Parcel 312.

Owner: John P. & Kathryn Miluski

The property and variance request were advertised in The Enterprise on October 8, 2014 and October 15, 2014. Ms. Chaillet submitted the certification of publication, 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 October 21, 2014 and the applicable regulations pertaining to the application. Ms. Chaillet submitted the staff report with (4) attachments for the record, *hereby labeled as Exhibit 2 by the Recording Secretary*.

Chairman Hayden asked if anything had changed on the plan since the 2011 approval. Ms. Chaillet indicated nothing has changed.

John and Kathryn Miluski were sworn for the record. Ms. Miluski indicated they received approval in 2011 but were unable to complete the construction due to a death in the family, then financial issues. Ms. Miluski indicated due to these issues they allowed the original approval to lapse. Ms. Miluski indicated they are requesting a very small addition. Chairman Hayden referenced staff report attachment 1 and asked if the applicant would like to add any additional information. Ms. Miluski stated no.

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 #11-0632, Miluski Property, having made a finding that the standards for granting a variance in the Critical Area and the objectives of Section 71.8.3 if 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 an attached garage and additions to an existing single family dwelling and Mr. Moreland seconded. The motion passed by a 4-0 vote.

CUAP #14-135-002- Patuxent River Assembly of God Property, Commercial Communication Tower

Chairman Hayden explained this hearing was opened and continued at the applicant's request at the October 9, 2014 meeting. Chairman Hayden asked Ms. Chaillet to re-introduce the case. Chairman Hayden asked if the certified mail receipts were on file. Ms. Chaillet stated all certifications were submitted at the October 9, 2014 hearing.

Present: Pat Mudd, Mudd Engineering, LLC; Mr. Paige Wyrrough, Mr. Mark Fisher, Mr. Manish Dureja

Ms. Yvonne Chaillet, LUGM was sworn for the record. The applicant is requesting a conditional use approval to construct a commercial communication tower. The property contains 41.57 acres; is zoned

Residential, Low-Density-Transitional (RL-T) District; and is located at 45020 Patuxent Beach Road, California, Maryland; Tax Map 34, Grid 17, Parcel 159.

The property and conditional use request were advertised in The Enterprise on September 24, 2014 and October 1, 2014. Ms. Chaillet gave an overview of the staff report dated September 29, 2014 and the applicable regulations pertaining to the application. Ms. Chaillet submitted the staff report with six (6) attachments for the record, *hereby labeled as Exhibit 1 by the Recording Secretary*. Ms. Chaillet introduced a letter from Gregory Stevens dated October 1, 2014 for the record, *hereby labeled as Exhibit 2 by the Recording Secretary*.

Mr. Fisher was sworn for the record. Mr. Mudd was sworn for the record. Mr. Wyrrough submitted a letter from Narendra Mangra of GlobeNet dated 10-23-14 for the record, *hereby labeled as Exhibit 3 by the Recording Secretary*. Mr. Mudd testified to the site location, access, size of facility, and fall zone, elevation drawing, etc.

Chairman Hayden referenced sheet 1 of 3 on the site plan and asked if the piece of land on the left would be cleared. Mr. Mudd indicated it would not be cleared; it is his understanding that State Highway has set this aside for possible future stormwater management. Mr. Payne asked about the two buildings on the plan, one of which is closest to the road and has three structures attached to it. Mr. Mudd indicated he wasn't sure but thinks they may be generators, etc. Mr. Payne asked if each carrier would have their own box. Mr. Mudd indicated this is true. Mr. Fisher testified that there could be several shelters depending on how many co-locators utilize the tower.

Chairman Hayden indicated the stormwater management area sits almost entirely inside the fall zone. Mr. Mudd indicated the easement was acquired back in the 1970's for stormwater management purposes. Chairman Hayden stated he is concerned that the monopole radius encompasses part of a State Highway easement. Mr. Mudd stated he has been unable to find a recorded instrument confirming this is a State Highway easement. Mr. Wyrrough indicated the ordinance only refers to buildings within the fall zone, not easements. Mr. Sparling stated the Board is being forced to decide upon a site plan that is unclear. Mr. Wyrrough requested a 30 day continuance. Chairman Hayden asked if all the proper TEC comments could be provided at that time. Mr. Wyrrough indicated he would have this information. Ms. Chaillet provided Mr. Wyrrough with applicable Board of Appeals dates. Mr. Wyrrough asked that the case be continued to the January 8, 2015 hearing.

Mr. Moreland made a motion to continue the hearing to the January 8, 2014 hearing and Mr. Guy seconded. The motion passed by a 4-0 vote.

MINUTES AND ORDERS APPROVED

The minutes of October 9, 2014 were approved as recorded.

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

None

ADJOURNMENT

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

Jada Stuckert, Recording Secretary

Approved in open session: February 12, 2015

George Allan Hayden
Chairman