

**MINUTES OF THE ST. MARY'S COUNTY BOARD OF APPEALS MEETING
CHESAPEAKE BUILDING * LEONARDTOWN, MARYLAND
Thursday, October 27, 2011**

Members present were Howard Thompson, Chairman; Wayne Miedzinski, Randy Guy, George T. Edmonds, and Ronald Payne. Veronica Neale was excused. Department of Land Use & Growth Management (LUGM) staff present were Yvonne Chaillet, Zoning Administrator; and Jada Stuckert, Recording Secretary. Attorney George Sparling and Attorney Brian Dugan were 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.

ORDERS APPROVED

The Board authorized the Chair to review and sign the following orders: Mr. Guy being absent at the October 13, 2011 hearing did not vote on the approval of the orders.

CUAP #11-131-028 – AAA Surface Mine (Pit 2)
VAAP #06-132-028 – Charlotte Hall Station

PUBLIC HEARINGS

VAAP #11-0724 - Ridgell

Ms. Yvonne Chaillet, LUGM was sworn for the record. The applicant is requesting a variance to disturb the Critical Area Buffer to construct a deck. The property contains 23,086 square feet; is zoned Rural Preservation District, Resource Conservation Area Overlay; and is located at 41405 Phillip Lane, Leonardtown, Maryland; Tax Map 40, Grid 16, Parcel 198.

Owner: Ronald and Patricia Ridgell
Present: Robert E. Trautman

The property and variance request were advertised in The Enterprise on October 12, 2011 and October 19, 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 October 17, 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. Robert Trautman was sworn for the record. Mr. Trautman stated he is representing Mr. and Mrs. Ridgell and gave a brief overview of the request. Mr. Trautman submitted three photos of the property for the record, *hereby labeled as Exhibit 3 by the Recording Secretary*.

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

Mr. Sparling submitted proposed findings of fact for this case.

Mr. Miedzinski made a motion to accept the proposed findings as findings of fact in this case and Mr. Guy seconded. The motion passed by a 5-0 vote.

Mr. Edmonds made a motion in the matter of VAAP #11-0724, Ridgell, 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 deck and walkway, subject to the following conditions:

- 1. The Applicants 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.b of the Ordinance. The Planting Plan shall show which native species have been selected for planting, and where in the Critical Area Buffer the Applicants propose to plant the vegetation.***
- 2. The Applicants shall comply with the critical Area Planting Agreement and approved Planting Plan***

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

Vergheese Nonconforming Use Status (Continued from September 22, 2011)

Mr. Zack Mattingly was sworn for the record. Mr. Mattingly asked that the case be continued as his new attorney has not been able to review the records in this case. Mr. Dugan stated Dr. Vergheese is the property owner in this case and indicated Dr. Vergheese would need to be the one to request the continuance.

Dr. Kannarkat Vergheese was sworn for the record. Mr. Thompson asked if Dr. Vergheese has hired appropriate representation for this case. Dr. Vergheese stated Mr. Mattingly hired Mr. John Mattingly however Mr. J. Mattingly has not had the time to review the records of the case. Mr. Thompson stated Mr. Z. Mattingly clearly indicated at the September 22, 2011 hearing that he would gain representation and be prepared for the hearing to be heard tonight or he would represent himself. Mr. Thompson asked when Mr. J. Mattingly was approached for representation. Mr. Z. Mattingly stated he contacted Mr. J. Mattingly three days ago.

Mr. Dugan reminded the Board that at the September 22, 2011 meeting he clearly indicated that representation should be present and able to represent the case at tonight's hearing. Mr. Thompson asked the Board if they would like to continue the case tonight. It was the consensus of the Board to move forward with a decision tonight.

Ms. Yvonne Chaillet was sworn for the record.

Mr. Zack Mattingly stated he doesn't understand why he was unable to review the records at Land Use and Growth Management on Tuesday, Wednesday, or Thursday. Mr. Dugan interjected that Mr. Mattingly's statements have nothing to do with the hearing tonight.

Mr. Mattingly asked if the Board has received the August 29, 2008 letter from John Norris to Christy Chesser. Ms. Stuckert stated this is attachment 10 of the May 19, 2011 staff report. Mr. Mattingly asked that the Board re-review May 19, 2011 Exhibit 3 –page 000001. Mr. Mattingly stated this is a page that was removed from the record because it is not readable. Mr. Dugan stated Mr. Mattingly needs to rebut previous testimony only and/or remove himself from the stand.

Chairman Thompson re-opened the hearing to public testimony.

Ms. Anne Shotwell was sworn for the record. Ms. Shotwell testified that the garage was there many, many years ago.

Ms. Loretta Vallandingham was sworn for the record. Ms. Vallandingham asked that the Board make a decision tonight so that we can all move on. Ms. Vallandingham indicated in 1947 this area was strictly a residential area. Mr. Mattingly asked if the property was St. Clements Shores in 1947. Ms. Vallandingham stated she only know that this is what her family has told her over the years.

Mr. Kevin Taylor was sworn for the record. Mr. Taylor testified that the Mattingly's have always been building racecars on the property and he has had his car fixed here several times.

Mr. Billy Fitzgerald was sworn for the record. Mr. Fitzgerald thanked the Board and County Employees for their time and patience in this case. Mr. Fitzgerald stated he has lived in the area all his life. Mr. Fitzgerald stated he feels Mr. Mattingly has no regard for others in the neighborhood and the properties should be cleaned up. Mr. Fitzgerald stated he has no animosity towards Mr. Mattingly or Dr. Vergheese, I simply disagree with the way the business is being run.

Ms. Anne Christina Choporis was sworn for the record. Ms. Choporis testified that she has had her car worked on at Mattingly's Auto Repair. Ms. Choporis stated when she has visited the repair business she could tell it is a typical garage.

Dr. Vergheese, previously sworn for the record, testified he has had work done on his car at the property in question. Dr. Vergheese stated he purchased the property for Mr. Mattingly.

Ms. Melissa Ritter was sworn for the record. Ms. Ritter stated she has known Mr. Mattingly for approximately three (3) years. Ms. Ritter stated Mr. Mattingly fixed her car for half the price of what the other mechanics in the area wanted to charge.

Ms. Christy Taylor was sworn for the record. Ms. Taylor stated she has known Mr. Mattingly all her life. Ms. Taylor stated the garage was located on the property and fully functional 15 to 20 years ago and that she has had work done on her car at Mattingly's.

Chairman Thompson closed the hearing to public testimony and asked for the Board's opinions on the case. Mr. Guy stated he is in favor of upholding the Director's decision. Mr. Edmonds, Mr. Miedzinski, Mr. Payne, and Mr. Thompson stated they are all in favor of denial. Mr. Thompson asked Mr. Dugan to prepare the order based on the Board's consensus and have it ready for signatures at the November 17, 2011 hearing.

MINUTES APPROVED

The minutes of October 13, 2011 were approved as recorded.

ADJOURNMENT

The meeting was adjourned at 8:30 p.m.

Jada Stuckert, Recording Secretary

Approved in open session: November 17, 2011

Howard Thompson
Chairman