

**MINUTES OF THE ST. MARY'S COUNTY BOARD OF APPEALS MEETING  
CHESAPEAKE BUILDING \* LEONARDTOWN, MARYLAND  
Thursday, December 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; 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 HEARING**

**VAAP #12-132-009 – South Gate Self Storage (Cont. from 11-14-13)**

Chairman Hayden indicated this hearing is being continued from November 14, 2013 and read the Planning Commission motion for the record as follows: *“Mr. Evans made a motion in the matter of CCSP #12-132-009, South Gate Self Storage, having accepted the staff report and having made a finding that the objectives of Section 60.6.4 of the Zoning Ordinance have been met, and noting that the referenced project has met all requirements for concept approval, to be forwarded to the Board of Appeals and Mr. Willard seconded. The motion passed by a 5-2 vote with Ms. Guazzo and Ms. McNeill opposed.”*

Mr. Longmore introduced the case and introduced Mr. Hopson who was sworn for the record. Mr. Longmore asked that the Staff Report and its four (4) attachments be entered into the record. Ms. Stuckert confirmed this was done at the November 14, 2013 meeting. Mr. Hopson presented a PowerPoint Presentation to the board and explained each slide. Mr. Hopson reviewed the need for each requested variance. Mr. Longmore reviewed the standards for granting a variance.

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

Mr. Dean Beck was sworn for the record. Mr. Beck indicated a chain link fence with the vinyl slats will be utilized and there will be a thick buffer between the storage facility and the residential area.

Mr. Moreland indicated he does not believe the applicant has met the criteria for variance approvals. Chairman indicated he believes the site is overbuilt at this point and is concerned that the rear yard setback reduction request is excessive considering it abuts a residential parcel.

***Mr. Guy made a motion in the matter of VAAP #12-132-009, South Gate Self Storage, having made a finding that the standards for granting a variance and the objectives of Schedule 32.1 of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move to approve the variance request to reduce the required front yard setback from 50 feet to 30 feet and Mr. Green seconded. The motion passed by a 4-1 vote with Mr. Moreland opposed.***

***Mr. Guy made a motion in the matter of VAAP #12-132-009, South Gate Self Storage, having made a finding that the standards for granting a variance and the objectives of Section 63.3 of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move to approve the variance request to reduce the expanded 60-foot Type C buffer to a 30-foot Type C Buffer with a fence and Mr. Green seconded. The motion passed by a 4-1 vote with Mr. Moreland opposed.***

***Mr. Guy made a motion in the matter of VAAP #12-132-009, South Gate Self Storage, having made a finding that the standards for granting a variance and the objectives of***

***footnote 4, Schedule 32.1 of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move to approve the variance request to reduce the required rear yard setback from 70 feet to 30 feet and Mr. Green seconded. The motion failed by a 2-3 with Mr. Moreland, Chairman Hayden and Mr. Payne opposed.***

***Mr. Guy made a motion in the matter of VAAP #12-132-009, South Gate Self Storage, having made a finding that the standards for granting a variance and the objectives of footnote 4, Schedule 32.1 of the St. Mary's county Comprehensive Zoning Ordinance have been met, I move to approve the variance request to reduce the expanded 60-foot Type C buffer to a 30-foot Type C buffer with a fence and Mr. Green seconded. The motion failed by a 2-3 vote with Mr. Moreland, Chairman Hayden and Mr. Payne opposed.***

## **MOTION**

### **ZAAP #12-141-028 – McDermott Property (Cont. from 11/14/13)**

Chairman Hayden indicated this hearing is being continued from November 14, 2013 and asked that Attorney Sparling brief the board. Mr. Sparling reviewed the issues for the appeal as follows:

1. Does the Appellant have standing to maintain the appeal?
2. Are the property owners, at the time of the filing of the appeal, having conveyed all right, title and interest, in the subject property after the filing of the appeal, proper parties in the proceeding?
3. Did the Planning Director comply with the procedural requirements for approval of a boundary line adjustment plat?

Sean McDermott was sworn for the record. Mr. McDermott testified to his standing in this case indicating Mr. DePriest owns Lot 5 and that the boundary line adjustment plat provides him no access to the property. Mr. McDermott indicated Mr. DePriest also has no damages regarding. Mr. McDermott indicated he sold lot 4 in November. Mr. DePriest is an adjoining lot owner. Mr. Sparling asked if the quick claim deed has been recorded. Mr. McDermott stated it is recorded.

Mr. Charles Schaler, Attorney testified that Mr. McDermott conveyed the property and therefore has no interest in this property. Mr. Schaler indicated the current property owner is abroad and has not shown any interest in dealing with this case.

Mr. McDermott rebutted stated having owned the property he paid taxes on the waterfront property for several years and has equal interest in the property.

***Mr. Moreland made a motion to determine that the McDermott's have no standing to maintain this appeal and Mr. Guy seconded. The motion passed by a 5-0 vote.***

***Mr. Moreland made a motion that the McDermott's having conveyed all right to the subject property are not proper parties in the proceeding and Mr. Guy seconded. The motion passed by a 5-0 vote.***

Subdivision Ordinance 30.12 sets forth what has to be filed as far as a boundary line adjustment plat. Mr. Sparling read for the record.

Mr. Schaler testified to why Mr. DePriest's application should be upheld and Mr. Shire's decision should be reversed. Mr. Schaler asked that the Board affirm the hearing Examiners decision. Mr. Schaler indicated a complete deed history was not provided to Mr. Shire to support signing the boundary line adjustment plat. Mr. Schaler stated the information provided to Mr. Shire was confusing and misleading. Mr. Moreland asked if Mr. Shire admitted to not having a complete deed history. Mr. Schaler indicated this is true, Mr. Shire testified to the Hearing Examiner that there was in fact no deed history submitted to Mr. Shire.

***Mr. Moreland made a motion to affirm the decision of the hearing examiner that the approval of the Boundary Line Adjustment Plat be reversed and Mr. Guy. The motion passed by a 5-0 vote.***

**MINUTES AND ORDERS APPROVED**

The minutes of November 14, 2013 were approved as recorded.

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

VAAP #13-1207 – Hudson

VAAP #12-0632 - Crawford

**ADJOURNMENT**

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

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Jada Stuckert, Recording Secretary

Approved in open session: March 13, 2014

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George Allan Hayden  
Chairman