

**MINUTES OF THE ST. MARY'S COUNTY BOARD OF APPEALS MEETING
CHESAPEAKE BUILDING * LEONARDTOWN, MARYLAND
Thursday, July 23, 2009**

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 6:30 p.m.

PUBLIC HEARINGS

ZAAP #02-0969 - Hart

Remanded by Circuit Court to the Board of Appeals for further proceedings consistent with the Circuit Court's opinion reversing the Board of Appeals decision of July 24, 2008 to uphold the Planning Director's determination that the property owners did not have a vested right to construct the single-family dwelling on the subject property and that the single-family dwelling was built without a valid building permit. The property contains 2.38 acres; is zoned Rural Preservation District (RPD), Limited Development Area (LDA) Overlay, Airport Environs (AE) Overlay; and is located at 45216 Clarkes Landing Road, Hollywood, Maryland; Tax Map 27, Block 17, Parcel 154.

Owner: Roy and Jane Hart
Present: Chris Longmore

The property and notice of remand by the Circuit Court were advertised in The Enterprise on July 8, 2009 and July 15, 2009. Ms. Chaillet stated staff posted the property and notified adjoining property owners of tonight's hearing by certified mail.

Ms. Chaillet read the staff report which recommended reversing the decision of the Planning Director. Mr. Sparling advised the Board that there is no way to comply with the Court's decision except to vote to reverse the decision of the Planning Director.

Mr. Edmonds made a motion in the matter of ZAAP #02-0969, Hart, having found that the Planning Director erred in his conclusion that the property owners did not have a vested right to build their single-family dwelling in the Critical Area Buffer, and consistent with the May 19, 2009 opinion of the Honorable C. Clarke Raley, Circuit Court for St. Mary's County, I move to reverse the decision of the Planning Director, having found that the property owners obtained vested rights to complete the structure described in the building permit they obtained in March 1986, because they commenced construction in good faith pursuant to a valid building permit and Ms. Miedzinski seconded. The motion passed by a 5-0 vote.

VAAP #09-0717 – River Bay Townhomes, LP

The applicant is requesting variance to allow an off-site sign advertising residential real property for rent. The property contains 12.76 acres; is zoned Residential, Low-Density District (RL), APZ-2 Overlay, PUD 4.1; and is located at 48100 Baywoods Drive, Lexington Park, Maryland; Tax Map 52, Grid 2, Parcel 7.

Owner: River Bay Townhomes
Present: Kim Aderholt

The property and variance were advertised in The Enterprise on July 8, 2009 and July 15, 2009.

Ms. Chaillet read the staff report which recommended approval of the request to allow an off-site sign advertising residential real property for rent. Mr. Edmonds asked if the applicant is requesting an enlargement of the sign. Ms. Chaillet stated no.

Ms. Aderholt stated she removed the sign until a verdict was given.

Chairman Thompson opened the hearing to public comment. Mr. Walter Burch stated the County Commissioners have discussed the sign regulations several times. Mr. Burch stated he does not feel this sign is in keeping with the Comprehensive Plan. Mr. Burch stated the applicant has enjoyed five years of illegal signage. Mr. Burch stated sign violations have been a long standing issue that staff does not notice or enforce. Mr. Burch stated this is sign proliferation and requiring the applicant to remove the sign will have no effect on their business.

Chairman Thompson closed the hearing to public comment. Mr. Miedzinski asked about the fees for signs. Ms. Chaillet stated the applicant will need a permit for the sign and will pay the permit fee. Mr. Guy asked if there is a separate ordinance for real estate signs. Ms. Chaillet stated Chapter 65 pertains to properties for sale not necessarily for rental properties. Mr. Guy stated the only problem he has with this is that the sign looks like a real estate sign rather than just identifying the business. Ms. Neale asked if staff has an issue with the language on the sign. Ms. Chaillet stated the Ordinance does not regulate this language.

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

Mr. Miedzinski made a motion in the matter of VAAP #09-0717 having made a finding that the standards for granting a variance and the objectives of Section 65.4.4 (b) and Section 65.2.6 (i) of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move to approve the variance request to allow an off-site sign advertising residential real property for rent with the condition that the sign be moved outside the County right-of-way and Ms. Neale seconded. The motion passed by a 5-0 vote.

VAAP #07-2594 – Leonard-Baluss

The applicant is requesting variance to add new impervious surface in the Critical Area Buffer to add a deck. The property contains 54.17 acres; is zoned Rural Preservation District (RPD) and Resource Conservation Area (RCA) Overlay; and is located at 43799 Little Cliffs Road, Hollywood, Maryland; Tax Map 20, Grid 12, Parcel 15.

Owner: Michael Leonard and Mary Baluss
Present: Mary Baluss

The property and variance were advertised in The Enterprise on July 8, 2009 and July 15, 2009.

Ms. Chaillet read the staff report which recommended approval of the request to modify condition three of the Board of Appeals Order dated August 14, 2008 to allow a woodshed to remain in its current location in the Buffer subject to the reduction in proposed deck size from 450 square feet to 232 square feet.

Mr. Sparling asked if condition five of the original order indicates a 120 foot woodshed and asked if this would be affected by this modification. Ms. Chaillet stated we will no longer need this condition if the Board approves the modification tonight. Mr. Sparling stated in addition to modifying condition three the Board can also remove condition five. Ms. Chaillet agreed.

Ms. Baluss provided staff with the certified mail receipts for the record, hereby labeled as Exhibit 1 by the recording secretary. Ms. Baluss gave an overview of the requested modification. Ms. Baluss stated as this works out we will have a smaller deck and be able to keep our woodshed.

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

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

Ms. Neale made a motion in the matter of VAAP #07-2594 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 request to modify condition three and strike condition five of the Board of Appeals Order dated August 14, 2008 to allow a woodshed to remain in its current location in the Buffer subject to the reduction in proposed deck size from 450 square feet to 232 square feet and Mr. Edmonds seconded. The motion passed by a 5-0 vote.

VAAP #07-3528 - Siegfried

The applicant is requesting variance to increase the size of an accessory apartment within a detached accessory structure. The property contains 6,173 square feet; is zoned Residential Neighborhood Conservation District (RNC); and is located at 46486 Midway Drive, Lexington Park, Maryland; Tax Map 43A, Grid 21, Parcel 575.

Owner: Micah Siegfried
Present: Micah Siegfried

The property and variance were advertised in The Enterprise on July 8, 2009 and July 15, 2009.

Ms. Chaillet read the staff report which recommended denial of the request to exceed the maximum square footage of an accessory apartment in a detached accessory structure. Mr. Edmonds asked if this would have come before the Board if a permit had been received for the kitchen. Ms. Chaillet stated yes, because the applicant would have still exceeded the maximum square footage for an accessory apartment.

Mr. Micah Siegfried submitted the certified mailing receipts for the record, hereby labeled Exhibit 1 by the recording secretary. Mr. Siegfried stated he plans to enclose the structure under the stairs making 120 square feet. Ms. Chaillet stated this will leave him only three feet short.

Chairman Thompson opened the hearing to public comment. Mr. Jeffery Siegfried stated this is a family project and asked for lenience from the Board for the three square feet.

Chairman Thompson closed the hearing to public comment.

Mr. Miedzinski made a motion in the matter of VAAP #07-3528, having made a finding that the standards for granting a variance and the objectives of Section 51.3.106 of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move to approve the variance to exceed the maximum square footage of an accessory apartment in a detached accessory structure with the condition that the area under the deck and stairs be enclosed adding approximately 120 square feet and that staff revise the staff report for findings at the August 13, 2009 meeting and seconded. The motion passed by a 5-0 vote.

MINUTES AND ORDERS APPROVED

The minutes of June 13, 2009 and July 9, 2009 were approved as recorded.

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

Ms. Chaillet stated by law the Board has 30 days to sign the written order for the Nicol case which was heard at the July 9, 2009 hearing. Ms. Chaillet asked for additional 15 days to allow the Board to sign the order.

Mr. Meidzinski made a motion to extend the 30 day requirement to 45 days for the Nicole Order and Ms. Neale seconded. The motion passed by a 5-0 vote.

ADJOURNMENT

The meeting was adjourned at 7:45 p.m.

Jada Stuckert, Recording Secretary

Approved in open session: August 13, 2009

Howard Thompson
Chairman