

**MINUTES OF THE ST. MARY'S COUNTY BOARD OF APPEALS MEETING**  
**CHESAPEAKE BUILDING \* LEONARDTOWN, MARYLAND**  
**Thursday, April 22, 2010**

Members present were Howard Thompson, Chairman; Wayne Miedzinski, Randy Guy, Veronica Neale, and Ronald Payne. George Edmonds was excused. 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**

**VAAP #07-132-003 – Lexington Village (Kohl's)**

The applicant is requesting variance to modify the required buffer yard. The property contains 24.99 acres; is zoned Corridor Mixed Use (CMX) District; and is located at the corner of Buck Hewitt Road and Three Notch Road, Lexington Park, Maryland; Tax Map 43, Grid 2, Parcel 50.

Owner: LV Retail Land, LLC  
Present: Christopher Longmore and Craig Cohen

The property and variance were advertised in The Enterprise on April 7, 2010 and April 14, 2010. 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 and the General Standards for Granting Variances in Section 24.3 of the Ordinance. Ms. Chaillet submitted the staff report dated April 14, 2010 for the record, *hereby labeled as Exhibit 2 by the Recording Secretary*.

Mr. Miedzinski stated he does not ever recall a six foot fence around any of the businesses. Ms. Chaillet stated most have received variances or supplemented the fence with a six foot berm. Mr. Thompson stated he counted several businesses in the area that had berms with plantings.

Mr. Cohen submitted an 8 x 14 photo of the property for the record, *hereby labeled as Exhibit 3 by the Recording Secretary*. Mr. Cohen stated the purpose of filing for this variance is not to avoid the regulations but to enhance them. Mr. Cohen stated there is currently a berm on the property with the proper plantings. Mr. Cohen stated when the fence was in place the entire shopping center was non-visible. Mr. Cohen stated the berm conceals the parking lot as it is now and as the plantings grow the parking lot will become less visible. Mr. Cohen stated we are proposing a smaller fence of four feet. Mr. Cohen stated he is also concerned that a six foot tall fence would impair the security of the buildings after hours.

Mr. Miedzinski asked what other buildings will be placed on the property. Mr. Cohen stated Rite-Aid and several others will be placed on the site. Mr. Guy asked how high the berm is at this point. Mr. Cohen stated he believes it is currently six feet however he would have to check on this. Mr. Thompson stated the berm needs to be re-evaluated for height as it is not six feet. Mr. Thompson stated the berm is required to block the view so that people are watching the road rather than the stores. Mr. Payne stated beginning at FDR Blvd. towards Buck Hewitt Road he noticed the fence posts and asked which fence this is for. Mr. Cohen stated they are for the four foot fence.

Mr. Sparling asked, because the property is fully developed if the Board granted a variance would the site plans have to be revised. Ms. Chaillet stated she is unsure. Mr. Sparling stated he would like this clarified. Mr. Longmore stated in the past the Board would grant the variance and the applicant would work with staff to gain the necessary site plan approvals.

Mr. Longmore stated the true effect of what the fence looked like wasn't realized until it was in place which is why the fence was removed and a variance was requested. Mr. Longmore stated the Board has in the past considered variances like this one i.e. Toyota of Southern Maryland. Mr. Longmore submitted the minutes of August 28, 2009 for the record, *hereby labeled as Exhibit 4 by the Recording Secretary* and the minutes of September 25, 2009 for the record, *hereby labeled as Exhibit 5 by the Recording Secretary*. Mr. Longmore submitted three photos for the record, *hereby labeled as Exhibit 6 by the Recording Secretary*. Mr. Longmore addressed the Standards for Granting a Variance as listed in Section 24.3 of the Ordinance. Mr. Longmore submitted the minutes of June 28,

2007 for the record, *hereby labeled as Exhibit 7 by the Recording Secretary* and the minutes of October 26, 2009 for the record, *hereby labeled as Exhibit 8 by the Recording Secretary*.

Chairman Thompson opened the hearing to public comment. Mr. Longmore asked that the case be continued to a date certain to allow staff time to decide if this is a major or minor change therefore deciding whether this needs to go back to the Planning Commission. Mr. Thompson left the public hearing open.

***Mr. Guy made a motion in the matter of VAAP #07-132-003 to continue the case to May 27, 2010. The motion was seconded and passed by a 5-0 vote.***

#### **5 MINUTE BREAK**

Mr. Thompson announced due to the nature of the following five (5) properties considering they are all in the same subdivision and immediately abutting each other, the Board would like to hear all five cases at one time.

#### **VAAP #08-1529 - Hicks**

The applicant is requesting variance to reduce the required front yard setback to construct a porch. The property contains 4,454 square feet; is zoned Planned Unit Development-Residential (PUDR); Underlying Zone: Residential, Low-Density District; and is located at 46690 Orchid Lane, Lexington Park, Maryland; Tax Map 51, Grid 16, Parcel 433 (Lot 1).

Owner: Margaret Hicks

#### **VAAP #08-1530 - Dorsey**

The applicant is requesting variance to reduce the required front yard setback to construct a porch. The property contains 3,738 square feet; is zoned Planned Unit Development-Residential (PUDR); Underlying Zone: Residential, Low-Density District; and is located at 46680 Orchid Lane, Lexington Park, Maryland; Tax Map 51, Grid 16, Parcel 433 (Lot2).

Owner: James Dorsey

#### **VAAP #08-1531 - Vause**

The applicant is requesting variance to reduce the required front yard setback to construct a porch. The property contains 3,607 square feet; is zoned Planned Unit Development-Residential (PUDR); Underlying Zone: Residential, Low-Density District; and is located at 46670 Orchid Lane, Lexington Park, Maryland; Tax Map 51, Grid 16, Parcel 433 (Lot3).

Owner: Kimberly Vause

#### **VAAP #08-1532 - Morgan**

The applicant is requesting variance to reduce the required front yard setback to construct a porch. The property contains 3,540 square feet; is zoned Planned Unit Development-Residential (PUDR); Underlying Zone: Residential, Low-Density District; and is located at 46660 Orchid Lane, Lexington Park, Maryland; Tax Map 51, Grid 16, Parcel 433 (Lot 4).

Owner: Sadie Morgan

#### **VAAP #09-0097 – Southern MD Tri-County Community Action Committee, Inc.**

The applicant is requesting variance to reduce the required front yard setback to construct a porch. The property contains 3,528 square feet; is zoned Planned Unit Development-Residential (PUDR); Underlying Zone: Residential, Low-Density District; and is located at 46650 Orchid Lane, Lexington Park, Maryland; Tax Map 51, Grid 16, Parcel 433 (Lot 5).

Owner: Southern MD Tri-County Community Action Committee, Inc. (SMTCCAC)

The properties and variances were advertised in The Enterprise on April 7, 2010 and April 14, 2010. Ms. Chaillet submitted the certifications of property posting and mailing receipts for the records, *hereby labeled as Exhibit 1 by the Recording Secretary for each respective case*. Ms. Chaillet gave an overview of the staff report and the General Standards for Granting Variances in Section 24.3 of the Ordinance. Ms. Chaillet submitted the staff reports dated April 12, 2010 for the records, *hereby labeled as Exhibit 2 by the Recording Secretary for each respective case*.

Ms. Lisa Quill submitted six photos of the properties on one page for the record, hereby labeled as Exhibit 3 by the Recording Secretary for each respective case.

Mr. Thompson opened the public hearings for each respective case for public comment, hearing none, closed the hearings to public comments.

***Ms. Neale made a motion in the matter of VAAP #09-0097 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 required front yard setback from 25 feet to 23 feet and Mr. Guy seconded. The motion passed by a 5-0 vote.***

***Mr. Guy made a motion in the matter of VAAP #08-1532 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 required front yard setback from 25 feet to 19 feet and Mr. Miedzinski seconded. The motion passed by a 5-0 vote.***

***Mr. Miedzinski made a motion in the matter of VAAP #08-1531 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 required front yard setback from 25 feet to 20 feet and Ms. Neale seconded. The motion passed by a 5-0 vote.***

***Mr. Payne made a motion in the matter of VAAP #08-1530 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 required front yard setback from 25 feet to 20 feet and Mr. Miedzinski seconded. The motion passed by a 5-0 vote.***

***Ms. Neale made a motion in the matter of VAAP #08-1529 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 required front yard setback from 25 feet to 20 feet and Mr. Miedzinski seconded. The motion passed by a 5-0 vote.***

#### **MINUTES AND ORDERS APPROVED**

The minutes of April 8, 2010 were approved as recorded.

**The Board authorized the Chair to review and sign the following orders:**  
VAAP #09-1349 - Wilson

#### **ADJOURNMENT**

The meeting was adjourned at 8:50 p.m.

Approved in open session: May 27, 2010

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Jada Stuckert, Recording Secretary

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Howard Thompson  
Chairman