

**MINUTES OF THE ST. MARY'S COUNTY BOARD OF APPEALS MEETING  
CHESAPEAKE BUILDING \* LEONARDTOWN, MARYLAND  
Thursday, June 28, 2012**

Members present were George Allan Hayden, Chairman; Robert Moreland, George T. Edmonds, Ronald Payne, and Mike Mummaugh. Randy Guy was absent. Department of Land Use & Growth Management (LUGM) staff present were Phil Shire, Director; Yvonne Chaillet, Zoning Administrator; Kelly Palmer, Environmental Planner II; 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 #12-0051 - Mitchell**

Ms. Kelly Palmer, LUGM was sworn for the record. The applicant is requesting a variance to disturb the Critical Area Buffer to construct a deck, after the fact, and to construct a proposed deck. The property contains 26,620 square feet; is zoned Residential Neighborhood Conservation (RNC) District and Limited Development Area (LDA) Overlay; and is located at 27308 Cat Creek Road, Mechanicsville, Maryland; Tax Map 14, Grid 18, Parcel 361.

Owner: Eric & Dana Mitchell

The property and variance request were advertised in The Enterprise on June 13, 2012 and June 20, 2012. Ms. Palmer submitted the certification of property posting and mailing receipts for the record, *hereby labeled as Exhibit 1 by the Recording Secretary*. Ms. Palmer gave an overview of the staff report dated June 18, 2012 and the specific standards for granting variances in the critical area and the 100-foot critical area buffer. Ms. Palmer submitted the staff report and attachments for the record, *hereby labeled as Exhibit 2 by the Recording Secretary*.

Mr. Eric Mitchell was sworn for the record. Mr. Mitchell submitted a copy of a PowerPoint Presentation for the record, *hereby labeled as Exhibit 3 by the Recording Secretary*.

Mr. Yvonne Chaillet was sworn for the record. Ms. Chaillet explained the expanded Critical Area Buffer.

Ms. Mary Owens of the Critical Area Commission was sworn for the record. Ms. Rachel Eisenhower, Assistant Attorney General questioned Ms. Owens about the property and case at hand. Ms. Owens testified the Critical Area Commission is opposed to the variance requests. Ms. Owens testified to the variance criteria that needs to be met and how the applicant does not meet these requirements.

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

Mr. Mitchell asked that the case be continued to a date certain to allow him time to gather additional information.

***Mr. Moreland made a motion in the matter of VAAP #12-0051, Mitchell, to continue the case to October 25, 2012 and Mr. Edmonds seconded. The motion passed by a 5-0 vote.***

**BREAK**

**VAAP #12-1012 – Oakville Elementary School Sign**

Ms. Yvonne Chaillet, LUGM was sworn for the record. The applicant is requesting a variance to allow an electronic changeable copy sign in the Rural Preservation District (RPD). The property contains 17.61 acres; is zoned Rural Preservation District; and is located at 26410 Three Notch Road, Mechanicsville, Maryland; Tax Map 14, Grid 22, Parcel 126.

Owner: Board of Education  
Present: Larry Hartwick and Kim Howe of SMCPS

The property and variance request were advertised in The Enterprise on June 13, 2012 and June 20, 2012. 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 June 11, 2012 and the general standards for granting variances, regulations for on-premise signs, and freestanding signs.

Ms. Kim Howe of SMCPS was sworn for the record. Ms. Howe testified that the reason for the requested variance is the location of the school on Route 235. Ms. Howe stated the digital sign would be used to advertise events at the school.

Ms. Chaillet submitted the staff report for the record, *hereby labeled as Exhibit 2 by the Recording Secretary*. Ms. Howe addressed the standards for granting a variance.

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

***Mr. Edmonds made a motion in the matter of VAAP #12-1012, Oakville Elementary School Sign, having made a finding that the standards for granting a variance and the objectives of Section 65.3.4.i of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move to approve the variance request to allow an electronic changeable copy sign in the Rural Preservation District (RPD) and Mr. Payne seconded. The motion passed by a 5-0 vote.***

**VAAP #08-1313 - Randall**

Ms. Yvonne Chaillet, LUGM was sworn for the record. Chairman Hayden stated he received three certified letters from a Mr. Franzen asking that this case be cancelled. Chairman Hayden stated he would not be submitting these letters into evidence as it will be up to Mr. Franzen to make his own case and submit his own evidence. Ms. Chaillet gave the legal description as follows: the applicant is requesting a variance to reduce the required side yard setback on the north side of the house to construct an attached garage. The property contains 1.24 acres; is zoned Residential Neighborhood Conservation (RNC) District and Limited Development Area (LDA) Overlay; and is located at 45354 Daniels Road, Hollywood, Maryland; Tax Map 27, Grid 18, Parcel 359.

Owner: Mitchell Randall & Cynthia Rhodes Randall

The property and variance request were advertised in The Enterprise on June 13, 2012 and June 20, 2012. 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 June 19, 2012 and the general standards for granting variances and the development standards. Ms. Chaillet submitted the staff report with attachments for the record, *hereby labeled as Exhibit 2 by the Recording Secretary*.

Mr. Michael Randall was sworn for the record. Mr. Randall submitted a site plan dated April 2012 for the record, *hereby labeled as Exhibit 3 by the Recording Secretary*. Mr. Randall gave an overview of a PowerPoint Presentation which he submitted for the record, *hereby labeled as Exhibit 4 by the Recording Secretary*. Mr. Randall submitted a MDIA Application for

Plumbing/Mechanical Inspection for the record, *hereby labeled as Exhibit 5 by the Recording Secretary*. Ms. Chaillet submitted the site plan that was approved for the garage permit for the record, *hereby labeled as Exhibit 6 by the Recording Secretary*.

Chairman Hayden opened the hearing to public comment.

Mr. Scott Bowling representing Mr. and Mr. Franzen. Mr. Bowling disputed the Mr. Randall's testimony indicating this went to Circuit Court to determine adverse ownership.

Mr. Bradley Franzen was sworn for the record. Mr. Bowling questioned Mr. Franzen who answered questions regarding the variance and case at hand. Mr. Bowling submitted the following evidence for the record:

LUGM permit dated 5/20/08 for the record, *hereby labeled as Exhibit 7 by the Recording Secretary*. Building permit dated 7/11/08 for the record, *hereby labeled as Exhibit 8 by the Recording Secretary*. Surveyor's Report from LSR, Inc. dated 5/22/09 for the record, *hereby labeled as Exhibit 9 by the Recording Secretary*. Two (2) photographs of the second story garage, *hereby labeled as Exhibit 10 by the Recording Secretary*. Court of Special Appeals Brief of Appellees *hereby labeled as Exhibit 11 by the Recording Secretary*. Letter to Board of Appeals from Bradly Franzen dated 6/28/12, *hereby labeled as Exhibit 12 by the Recording Secretary*.

Mr. Randall cross-examined Mr. Franzen.

Hearing no other testimony, Chairman Hayden closed the hearing to public comment.

***It was the consensus of the Board to continue the case to August 9, 2012.***

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

The minutes of June 14, 2012 were approved as recorded.

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

ZAAP #08-1441 Seymour, Inc.

VAAP #11-1831 Elrod

VAAP #10-1770 – Tri-County Builders

#### **ADJOURNMENT**

The meeting was adjourned at 10:00 p.m.

---

Jada Stuckert, Recording Secretary

Approved in open session: July 12, 2012

---

George Allan Hayden  
Chairman