

**MINUTES OF THE ST. MARY'S COUNTY BOARD OF APPEALS MEETING  
ROOM 14 \* GOVERNMENTAL CENTER \* LEONARDTOWN, MARYLAND  
Thursday, January 8, 2004**

Present: Marie Underwood, Chairperson  
George Allan Hayden, Vice Chair  
Greg Callaway, Member  
Ronald C. Delahay, Sr., Member  
Michael Hewitt, Member  
John B. Norris, III, County Attorney  
Denis Canavan, Director, Department of Land Use & Growth  
Management  
Yvonne Chaillet, Planner III, LUGM  
Peggy Childs, LUGM Recording Secretary

A sign-in sheet is on file in Department of Land Use & Growth Management. All participants in all cases were sworn in. The Chair called the meeting to order at the Board's new meeting time of 6:30 p.m.

**PUBLIC HEARING**

**VAAP #01-1902 – GEORGE & MAUREEN DIAZ II**

Requesting a variance from Section 71.8.3 of the St. Mary's County Comprehensive Zoning Ordinance (#Z-02-01) to construct a single-family dwelling and appurtenances within the Critical Area Buffer, expanded for steep slopes. The property contains 1.1 acres, is zoned RPD (LDA Overlay), and is located on the east side of Whiskey Creek Road in Hollywood; Tax Map 21, Block 7, Parcel 144, Lot 10 of Eagle Crest Subdivision.

Owners/Present: George & Maureen Diaz

Legal Ad published in The Enterprise on 12/24/03 & 12/31/03

Mr. Diaz testified that he notified all contiguous property owners and posted the property, as required. He explained that his first request for a variance from Section 71.8.3 of the Ordinance was approved by the Board in May 2002. He stated that he was unaware that the variance was only good for a year and, because they had trouble finding a builder down here, they unwittingly allowed the variance to expire.

Mr. Diaz said nothing has changed from the first application that was approved by the Board in 2002. They seek a variance to allow them to construct an approximate 1900 square foot home and appurtenances on Lot 10 in Eagle Crest Subdivision. The home will be located as far away from the water

as possible and still leave room for their septic field, the location of which has been directed by the Health Department.

Ms. Chaillet stated that Eagle Crest Subdivision was recorded in April 1986, after the State's adoption of the Critical Area legislation, but prior to the County's adoption of the Critical Area Program in 1990. Lot 10 is constrained entirely by the Critical Area Buffer, which has been expanded for steep slopes, and by setbacks required by the Health Department and the Zoning Ordinance. The house will have porches, and a driveway and sidewalk. At its closest point, the dwelling will be located approximately 240 feet from the mean high water of St. Thomas Creek. The area of disturbance is estimated at 9,200 square feet, which includes the area required for the septic easement. The proposed construction will result in 4,150 square feet of impervious surface, or 8.6% of the lot, well within the 15% limitation allowed for this lot.

The site plan has been reviewed and approved by the Health Department and the Soil Conservation District, which is requiring a standard erosion and sediment control plan. There have been no changes to the original site plan since its approval in May 2002. The Critical Area Commission states, in its letter dated December 19, 2003, that it has no opposition to the variance, but recommends that the initial 1:1 of the required 3:1 planted mitigation be provided on site, in the area of the existing woods road to be abandoned. Staff has made findings in favor of the Critical Area Standards for Variance and recommends approval of the variance, subject to the condition that the applicants adhere to the December 30, 2003 Planting Agreement

**Mr. Hewitt moved to accept the Staff Report; seconded by Mr. Hayden and passed by 5-0.**

Mr. Hewitt noted that the house will come out onto the cul-de-sac rather than onto Whiskey Creek Road, and asked if Mr. Diaz had considered putting it on the other side of the lot? Mr. Diaz replied that no, this is the flattest part of the lot and is the only place the house could be located, due to the location of the septic field.

The Chair opened the hearing to public comment. There were no comments.

**Mr. Delahay moved that, having accepted the 12/16/03 Staff Report and making a finding that the Critical Area Standards for Variance and the objectives of Section 71.8.3 of Zoning Ordinance #Z-02-01 have been met, a Variance from Section 71.8.3 to allow construction of a single-family dwelling and appurtenances within the Critical Area Buffer, expanded for steep slopes, be approved. The motion was seconded by Mr. Callaway and passed by a vote of 5-0.**

**MINUTES AND ORDERS APPROVED**

The minutes of December 4, 2003 were approved as recorded. Order VAAP #03-2545, for Thomas and Maureen Diaz, was approved as submitted.

### **ANNUAL ELECTION OF OFFICERS**

Ms. Underwood was retained as Chairperson and Mr. Hayden was retained as Vice Chair.

### **BOARD OF APPEALS RETREAT**

Staff was directed to reserve The Maryland Room at the Lundeberg School of Seamanship for either Monday, March 1<sup>st</sup> or Monday, March 8<sup>th</sup>, from 9:00 a.m. to 3:00 p.m. for a Board of Appeals Retreat. The fee of \$75.00 will be paid by the County but the cost of the lunch will be \$11.00 per person.

Second Alternate Mr. Miedzinski, who was present in the audience, agreed to attend. Staff will contact First Alternate Brian Barthelme to solicit his attendance.

### **ADJOURNMENT**

The meeting was adjourned at 7:05 p.m.

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Peggy Childs  
Recording Secretary

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Approved in open  
session: February 12, 2004

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Marie E. Underwood  
Chairperson