

**MINUTES OF THE ST. MARY'S COUNTY BOARD OF APPEALS
ROOM 14 * GOVERNMENTAL CENTER * LEONARDTOWN, MARYLAND
Thursday, April 14, 2005**

Present: George Allan Hayden, Chairman
 Greg Callaway, Vice Chair
 Ronald C. Delahay, Member
 Michael Hewitt, Member
 Wayne Miedzinski, Member
 John B. Norris, III, County Attorney
 Denis Canavan, Director, Department of Land Use &
 Growth Management
 Yvonne Chaillet, Planner III, LUGM
 Sharon Sharrer, LUGM Recording Secretary

Present as an observer, for all cases except VAAP #04-2541 – Burris, was the Board of Appeals 1st Alternate, Gertrude V. Scriber. A sign-in sheet is on file in the Department of Land Use & Growth Management (LUGM). All participants in all cases were sworn in. The Chair called the meeting to order at 6:30 p.m.

PUBLIC HEARING

VAAP #04-2541 – BURRIS

The applicant is requesting variance from Schedule 32.1 of the St. Mary's County Comprehensive Zoning Ordinance (Z02-01) to reduce the front yard setback. The property contains 0.28 acres; is zoned Rural Preservation District (RPD); and is located at 17670 Three Notch Road in Dameron, Maryland; Tax Map 68, Block 7, Parcel 115.

Owner: David and Lisa Burris
Agent: Barrett Vukmer, of Chesapeake Trails Surveying, LLC

Legal advertisements were published in the Enterprise on March 30, 2005 and April 6, 2005. The property was posted and receipts from the certified mailings are in the file.

Mr. Vukmer explained that there is an existing modular home at this location, and no increase in setback is being requested. The current house is approximately 138 feet off of the centerline for the road but, since the right-of-way is 180 feet wide for the single lane road, the actual setback that exists is 19 feet off of the right-of-way.

Mr. Callaway made a motion that the staff report be accepted. The motion was seconded by Mr. Hewitt and passed by a 5-0 vote.

The Chair opened the hearing to the public. The public hearing closed with no comment.

Mr. Callaway moved that having accepted the staff report, dated April 5, 2005, and having made a finding that the standards for variance and the objectives of Schedule 32.1 of the St. Mary's County Comprehensive Zoning Ordinance have been met, the Board approve the variance to reduce the required front yard setback from 50 feet to 19 feet to construct a single family dwelling. The motion was seconded by Mr. Miedzinski and passed by a 5-0 vote.

VAAP #04-3129 – SATTERTHWAITE

The applicant is requesting variance from Section 71.8.3 of the St. Mary's County Comprehensive Zoning Ordinance (Z02-01) to increase the amount of impervious surface in the Critical Area Buffer with the addition of a shed. The property contains 7,830 square feet; is zoned Residential Low Density (RL) District, Intensely Developed Area (IDA) Overlay District; and is located at 17448 Poplar Street in Piney Point, Maryland; Tax Map 65, Block 15, Lots 1-4.

Owner: Joseph Satterthwaite

Receipts of certified mailings were provided by the applicant.

Due to the fact that the posted sign did not meet the minimum size requirements, this request must be re-advertised and will be heard on May 12, 2005, contingent upon adequate notice being provided in accordance with the St. Mary's County Comprehensive Zoning Ordinance.

VAAP #03-0573 – SHIELDS

The applicant is requesting after-the-fact variance from Section 71.8.3 of the St. Mary's County Comprehensive Zoning Ordinance (Z02-01) to increase the amount of impervious surface in the Critical Area Buffer with the addition of a walkway and after-the-fact variance from 71.9.8.j of the St. Mary's County Comprehensive Zoning Ordinance (Z02-01) to increase the width of the walkway from three feet to four feet. The property contains 7.38 acres; is zoned Rural Preservation District (RPD), Resource Conservation Area (RCA) Overlay District; and is located at 50445 Hays Beach Road in Scotland, Maryland; Tax Map 73, Block 4, Parcel 220.

Owner: Ronald and Sheryl Shields

The property was posted and receipts of certified mailings were provided.

Ms. Shields explained that she had not realized that a permit was needed for the walkway down to the pier, and apologized for constructing the walkway without first obtaining a permit.

Ms. Chaillet explained that the Critical Area Commission (CAC) is opposed to the requested variance to increase the width of the walkway. The comments from CAC explained that they felt that any disturbance caused by removing a portion of the walkway would be temporary, and that removal of impervious surface in the 100-foot Buffer will ultimately provide for more infiltration in the Buffer and reduce runoff going into Deep Creek.

Mr. Callaway made a motion that the staff report be accepted. The motion was seconded by Mr. Miedzinski and passed by a 5-0 vote.

The Chair opened the hearing to public comment. The public hearing closed with no comments.

Mr. Hewitt moved that having accepted the staff report, dated April 5, 2005, and having made a finding that the Standards for Variance in the Critical Area and the objectives of Section 71.8.3 and Section 71.9.8.j of the St. Mary's County Comprehensive Zoning Ordinance have not been met, the Board deny the after-the-fact variance for a four-foot walkway in the Critical Area Buffer. The motion was seconded by Mr. Callaway and passed by a 5-0 vote.

CUAP #02-130-029 – McINTOSH PIT, EXTRACTIVE INDUSTRY

The applicant is requesting amendment to an approved Conditional Use pursuant to Chapter 25 of the St. Mary's County Comprehensive Zoning Ordinance (Z02-01) to revise the allowed number of truckloads on the private road. The property contains 80 acres; is zoned Rural Preservation District (RPD); and is located on the west side of Burnt Mill Drive, approximately two miles north of its intersection with McIntosh Road; Tax Map 25, Block 16, Parcel 249.

Owner: Gene St. Clair
Agent: Butch Bailey, of Nokleby Surveying, Inc.

The property was posted and receipts from certified mailings are in the file.

Mr. Bailey explained that the 15 truckload limit per day would be extremely restrictive due to the nature of Mr. St. Clair's business, Bay Country Contractors. Bay Country Contractors builds roads in quite a few County subdivisions, and also has access to other businesses in the County who would like to buy gravel. He said that Mr. St. Clair has purchased the property and Burnt Mill Drive, and

has taken over responsibility for maintaining the road. Mr. St. Clair explained that he had contacted all of the homeowners on Burnt Mill Drive, proposing that he accept total responsibility for maintaining the road, and outlining his request for an increased daily truckload limit to help offset costs of maintaining the road and make sure that the mining operation can still make a reasonable profit.

Ms. Chaillet explained that the Board of Appeals had determined, in July of 2003, that a maximum of 15 truckloads per day would be compatible with the neighborhood. At that time, the Board did require that the road be tarred & chipped. Due to the grade of the road, the varying widths of the road, the 15 residents along Burnt Mill Drive, the other private road which comes off of Burnt Mill Drive, and the Amish buggies that use Burnt Mill Drive; she explained that staff recommended denial of the requested increase in number of allowed truckloads.

Board members expressed concern over the ability to enforce a load limit and the number of homes already allowed on the private road. They expressed further concern that load limits suggested did not match the conditions set for other mining operations in the County.

Mr. Miedzinski made a motion that the staff report be accepted. The motion was seconded by Mr. Hewitt and passed by a 5-0 vote.

The Chair opened the hearing to public comment.

Michael Topolski, Richard Victor, and Tim Modic, who are all residents along Burnt Mill Drive, spoke in support of the requested amendment to the Conditional Use for McIntosh Pit. They explained that having the road tarred and chipped, as well as continued maintenance of the road, would make up for any aggravation caused by additional trucks driving on the road. Mr. Modic explained that his biggest problem with the gravel pit is that people go back there to shoot, and that he hopes Mr. St. Clair is able to reduce that problem.

Kathleen Crosby, another resident on Burnt Mill Drive, explained that she is neither totally for nor against the Applicant's request. She explained that she does not want to have the road tarred and chipped, and expressed concern about how long the mining operation would continue. She said that she is very concerned about the safety of the children in the area, as well as the safety of her horses. She asked that no truckloads be allowed at any time on weekends.

James Wilson, who also lives on Burnt Mill Drive, explained that he felt the primary safety concern is at the intersection. He expressed concern about the speed traveled on the road, and suggested that the area speed limits should be considered carefully.

Eleanor Pruitt, another resident of Burnt Mill Drive, spoke in opposition to the requested increase in truckloads allowed. She explained that she has been living in the area since 1979, and there was no mention in her deed of a gravel pit. She said that allowing over 24 truckloads a day should not be considered. Ms. Pruitt also expressed concern about the speed limit on the road and the dust from the trucks, even with a tarred and chipped road.

Faith Modic, explained that her main concern is the speed of vehicles traveling on the road. She suggested that a speed bump might help slow down the traffic. Mr. Hewitt explained that speed bumps are not generally encouraged, due to the increased difficulty of removing snow on roads which have speed bumps. He suggested that Mr. St. Clair should make sure that the truck drivers do not exceed any posted speed limits.

The Chair closed the public hearing.

Ms. Chaillet explained that the staff report only shows the first 15 of the original 19 conditions for the existing Conditional Use, and read the last four conditions to the Board for their consideration before making a motion on the Applicant's request.

Mr. Hewitt made a motion that, having accepted the testimony of the Applicant and the Applicant's address of the standards general, the Board approve the following amendments to the existing Conditional Use:

- 1. Condition 3 shall be amended to allow an average of 24 truckloads per day, with a maximum of 40 truckloads per day and 144 truckloads per week.**
- 2. Condition 4 shall be amended to prohibit truckloads on Saturdays and limit operations on Monday through Friday to terminate at 4:30 p.m.**
- 3. Condition 16 shall be amended to require that the Applicant double surface-treat the existing gravel road prior to July 1, 2005, weather permitting.**
- 4. Condition 17 shall be amended to provide that three speed limit signs be posted at 15 MPH in each direction along Burnt Mill Drive for a total of six (6) speed limit signs; slope and curve signs be posted; and signs be posted to provide a notice of whom to contact regarding speeding or other violations.**

The motion was seconded by Mr. Miedzinski and passed by a 5-0 vote.

INTRODUCTION OF THE NEW FIRST ALTERNATE TO THE BOARD OF APPEALS

Mr. Hayden welcomed Ms. Gertrude Scriber as the new 1st Alternate to the Board of Appeals, and introduced her to Board members and staff.

DISCUSSION

Board members asked Mr. Canavan to have staff look into compliance with a prior Board of Appeals Conditional Use application. Mr. Canavan explained that staff will perform an inspection and will notify the Board of the results of the inspection.

ACTIONS TAKEN BY PLANNING DIRECTOR ON VARIANCE APPLICATIONS RECEIVED FOR ADMINISTRATIVE REVIEW

VAAP #04-2581 – Sharon and Richard Chadwick – 0.74 acres – Variance from Section 32.1 of the St. Mary's County Comprehensive Zoning Ordinance (Z02-01) to reduce the front yard setback. **Variance approved.**

VAAP #04-3249 – Steve Leopold – 0.58 acres – Variance from Section 71.8.3 of the St. Mary's County Comprehensive Zoning Ordinance (Z02-01) to increase impervious surface in the Critical Area Buffer with additions to a single-family dwelling. **Variance approved with signed planting agreement.**

VAAP #04-3084 – Charles & Sharon Parker – Variance from Section 71.8.3 of the St. Mary's County Comprehensive Zoning Ordinance (Z02-01) to increase impervious surface in the Critical Area Buffer with additions to a single-family dwelling. **Variance approved with signed planting agreement.**

VAAP #04-2717 – W. Kevin O'Toole – 2.45 acres – Variance from Section 71.8.3 of the St. Mary's County Comprehensive Zoning Ordinance (Z02-01) to construct a single-family dwelling and appurtenances in the Critical Area Buffer. **Variance approved with signed planting agreement and approved boundary line adjustment plat.**

MINUTES AND ORDERS APPROVED

The minutes of March 10, 2005 were approved as recorded.

The Board authorized the Chairman to review and sign the orders. The Chair reviewed and approved as submitted the following Orders:

VAAP #04-3031 – Richard Copsey
CUAP #87-1824 – Big Foot Hunt Club

ADJOURNMENT

The meeting was adjourned at 8:40 p.m.

Sharon J. Sharrer
Recording Secretary

Approved in open session: May
12, 2005

George Allan Hayden
Chairman