

**MINUTES OF THE ST. MARY'S COUNTY BOARD OF APPEALS MEETING
CHESAPEAKE BUILDING * LEONARDTOWN, MARYLAND
Thursday, August 14, 2008**

Members present were Wayne Miedzinski, Acting Chairman; Ronald Delahay, Veronica Neale, and Ronald Payne. George Hayden and George Edmonds were excused. Department of Land Use & Growth Management (LUGM) staff present were Yvonne Chaillet, Zoning Administrator; and Jada Stuckert, Recording Secretary. David Weiskopf, Deputy County Attorney and George Sparling, Attorney were 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 #08-1319 - Givens

The applicant is requesting variance to reduce the side yard setback to construct a garage. The property contains 20,000 square feet; is zoned Residential Neighborhood Conservation District (RNC, Limited Development Area (LDA) Overlay; and is located at 29964 Skyview Drive, Mechanicsville, Maryland; Tax Map 5, Block 6, Parcel 340.

Owner: Ronaldo Givens and Bregetta McWilliams-Givens

The property and variance were advertised in The Enterprise on July 30, 2008 and August 6, 2008.

Mr. Givens gave statement concerning the proposed two-bay garage. Mr. Givens explained the garage is needed for additional storage of lawn equipment and personal vehicles. Ms. Chaillet read the staff report which recommended approval of the variance to reduce the side yard setback.

Mr. Miedzinski opened the hearing to public comment, hearing none, closed the hearing for public comment. ***Ms. Neale made a motion to accept the staff report as finds of fact in this case and Mr. Delahay seconded. The motion passed by a 4-0 vote.*** Mr. Miedzinski asked if Mr. Givens neighbor had been contacted regarding the reduction in the setback. Ms. Chaillet stated, yes. Mr. Givens stated his neighbor has no issues with the garage being built.

Ms. Neale made a motion in the matter of VAAP #08-1319, Givens, 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 request to reduce the side yard setback on the north side of the Property from ten feet to three feet to construct a two-bay garage and Mr. Delahay seconded. The motion passed by a 4-0 vote.

CUAP #06-132-007 – Winstead Surface Mine

The applicant is requesting a modification of conditional use approval to allow the adjoining Hodges mining operation to share the existing haul road and entrance onto MD Route 236. The property contains 60.58 acres; is zoned Rural Preservation District (RPD); and is located at 27535 Thompson Corner Road, Mechanicsville, Maryland; Tax Map 11, Grid 05, Parcel 63 and Tax Map 07, Grid 24, Parcel 26.

Owner: William E. Winstead
Present: John Norris III

The property and conditional use request were advertised in The Enterprise on July 30, 2008 and August 6, 2008.

Mr. Norris submitted photos of the signs posted to staff and gave an overview of the project. Ms. Bernice Crissman gave an overview of how the haul road will be utilized for both properties. Mr. Norris submitted Exhibit A – Ariel Map of Winstead and Hodges property; Exhibit B – Color Map of Hodges parcel indicating phase plan. Mr. Payne asked if the haul road starts where the asphalt ends. Ms. Crissman stated, yes. Mr. Payne asked if the haul road would be mined. Ms. Crissman explained the haul road would be mined on the way out.

Mr. Miedzinski asked that Mr. Crissman give an overview of both the conditional use and the variance for Winstead. Ms. Crissman explained the advantages of reducing the buffer stating mining both properties at once would allow the properties to blend together as far as topography goes. Mr. Norris stated the berm would be extended to the Hodges mine to help screen for dust and noise.

Ms. Chaillet read the staff report which recommended approval to allow the adjoining Hodges mining operation to share the existing haul road and entrance onto MD Route 236. ***Ms. Neale made a motion to accept the staff report as finds of fact in this case and Mr. Delahay seconded. The motion passed by a 4-0 vote.*** Mr. Miedzinski opened the hearing to public comment.

Ms. Margaret Roberts asked about the hours of operation on Saturdays. Ms. Chaillet stated the hours are 8:00 a.m. to 12:00 p.m. on Saturdays and there will be no hauling on Saturdays. Ms. Roberts stated she is very concerned with the dust getting on homes, and in pools. Ms. Roberts stated SMECO placed an electric pole on her property that was unwanted. Mr. Joe Penn stated SMECO was contracted to move the electric poles and is unsure why Ms. Roberts was not contacted.

Mr. Delahay asked Mr. Penn to power wash the surrounding homeowner's homes four times per year. Mr. Norris asked Ms. Roberts to mark on Exhibit A the location of her home. Ms. Roberts made two marks the northerly one indicating her home and the southern one indicating her daughter's property. Mr. Norris stated he understands the dust concern however these houses are 400 to 600 feet away. Mr. Norris explained this is a rural area in which dust can be created from a drought; farmer's plowing their fields, or plumbers and masonries doing their work. Mr. Delahay kindly withdrew his request for power washing.

Ms. Neale made a motion in the matter of CUAP #06-132-007 having made a finding that the standards for granting a conditional use and the objectives of Section 51.3.80 of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move to approve the request to modify the approved conditional use to allow the existing haul road and entrance on MD Route 236 to be used by the adjoining Hodges Surface Mine located on parcel 6 and to allow an additional one and one-half (1.5) acres to be mined and Mr. Delahay seconded. The motion passed by a 4-0 vote.

VAAP #06-132-007 – Winstead Surface Mine

Ms. Chaillet stated the legal description is the same as the previous case. Mr. Norris stated it only makes sense to reduce the setback as opposed to having a slope and a plateau between the properties. Mr. Norris asked that the same exhibits used and testimony given for CUAP #06-132-007 be submitted for the record in this case. Mr. Miedzinski accepted and all were entered into the record.

Ms. Chaillet read the staff report which recommended approval to reduce the required setback from the shared property line with parcel 6. ***Ms. Neale made a motion to accept the staff report as findings of fact in this case and Mr. Delahay seconded. The motion passed by a 4-0 vote.***

Mr. Miedzinski opened the hearing to public comment, hearing none, closed the hearing for public comment.

Ms. Neale made a motion in the matter of VAAP #06-132-007, Winstead Surface Mine, having made a finding that the standards for granting a variance and the objectives of Section 51.3.80 of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move to approve the request to reduce the approved 100-foot setback to zero along the Property's shared boundary with the Hodges property to the north on parcel 6 subject to the conditions of the conditional use and Mr. Miedzinski seconded. The motion passed by a 4-0 vote.

CUAP #08-132-007 – Hodges Surface Mine & VAAP #08-132-007 – Hodges Surface Mine

The applicant is requesting conditional use approval for an extractive industry involving mining more than five acres. The property contains 75.60 acres; is zoned Rural Preservation district (RPD); and is located at 27677 Thompson Corner Road, Mechanicsville, Maryland; Tax Map 7, Grid 24, Parcel 6.

Owner: Lois R. Hodges and Lois Annette Hodges
Present: John Norris III

The property and conditional use request were advertised in The Enterprise on July 30, 2008 and August 6, 2008.

Mr. Norris gave an overview of both the conditional use and the variance application. Mr. Norris asked that the same exhibits used and testimony given for CUAP #06-132-007 & VAAP #06-132-007, Winstead be submitted for the record in this case. Mr. Miedzinski accepted and all were entered into the record.

Ms. Crissman referenced exhibit B stating the 200-foot buffer would be maintained on each boundary line except for that which is being reduced conditioned upon approval of the variance. Ms. Crissman stated they will not be crossing Budds Creek. Mr. Norris submitted Exhibit C – Photo of signs posted on the property to show the dense vegetation and wooded area.

Ms. Chaillet read the staff report which recommended approval of the conditional use for an extractive industry involving the mining of 30 acres for a total of 33 acres of disturbance. Ms. Chaillet asked that the staff report be amended to delete staff comments number two and three and to amend condition number seven to read hours of operation on Saturdays will be from 8:00 a.m. to 12:00 p.m. ***Ms. Neale made a motion to accept the staff report as findings of fact in the conditional use case and Mr. Delahay seconded. The motion passed by a 4-0 vote.***

Mr. Miedzinski opened the hearing to public comment. Ms. Cynthia Morgan identified her property on exhibit B stating there is an underground pipeline located on her property and asked if the 200-foot buffer would be sufficient to protect the pipeline. Mr. John Norris Jr. stated the 200 foot buffer is plenty and the mining would not disturb the pipeline. Ms. Morgan voiced her concerns regarding the trucks hauling on Route 236 and the condition of the road. Mr. Miedzinski stated he is aware of the condition of MD Route 236 however this is a State road.

Ms. Annette Hodges referenced exhibit B and explained the condition of the dense buffer as being hard woods, honeysuckle, etc. Ms. Hodges stated there are portions so dense one could not walk through it.

Mr. Miedzinski closed the hearing for public comment. ***Ms. Neale made a motion to accept the staff report as finds of fact in the variance application case and Mr. Delahay seconded. The motion passed by a 4-0 vote.***

Ms. Neale made a motion in the matter of CUAP #08-132-007, Hodges Surface Mine, having made a finding that the standards for granting a conditional use and the objectives of Section 51.3.80 of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move to approve the request for an extractive industry involving the mining of 30 acres for a total of 33 acres of disturbance, subject to the conditions stated in the staff report with the correction of deleting numbers two and three of the staff comments and amending number seven to correct the hours of operation on Saturdays and Mr. Delahay seconded. The motion passed by a 4-0 vote.

Ms. Neale made a motion in the matter of VAAP #08-132-007 having made a finding that the standards for granting a variance and the objectives of Section 51.3.80 of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move to approve the request to reduce the required 200-foot setback to zero along the Property's shared boundary with the Winstead property to the south and to reduce the required 200-foot setback to 100-feet along a portion of the Property's frontage with MD Route 236 as shown on the site plan and Mr. Delahay seconded. The motion passed by a 4-0 vote.

MINUTES AND ORDERS APPROVED

The minutes of July 24, 2008 were approved as presented.

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

VAAP #07-2594 – Leonard
VAAP #08-0858 – Smith
CUAP #08-135-001 – Avenue Commercial Communication Tower
VAAP #07-0744 - Boling

ADJOURNMENT

The meeting was adjourned at 8:30 p.m.

Jada Stuckert, Recording Secretary

Approved in open session: August 28, 2008

George Allan Hayden
Chairman