

**MINUTES OF THE ST. MARY'S COUNTY BOARD OF APPEALS MEETING  
CHESAPEAKE BUILDING \* LEONARDTOWN, MARYLAND  
Thursday, August 27, 2009**

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

**ZAAP #08-200-003 – Mill Cove Manor Appeal**

The applicant is appealing the determination and recommendations of the Planning Commission regarding a request for change to the Comprehensive Water and Sewer Plan. The property contains 12.88 acres; is zoned Residential, Low-Density District (RL), Limited Development Area (LDA) Overlay, Airport Environs (AE) Overlay; and is located in California, Maryland; Tax Map 27, Block 24, Parcel 10.

**ZAAP #08-200-004 – Mill Cove Harbor Appeal**

The applicant is appealing the determination and recommendations of the Planning Commission regarding a request for change to the Comprehensive Water and Sewer Plan. The property contains 10.4 acres; is zoned Residential, Low-Density District (RL), Limited Development Area (LDA) Overlay, Airport Environs (AE) Overlay; and is located at Short Cove Lane and Mill Cove Harbor Road in California, Maryland; Tax Map 27, Block 23, Parcel 2.

Owner: Mill Cove Harbor  
Present: John Norris III

Chairman Thompson stated the two hearings would be heard at the same time. Mr. Sparling stated the question tonight is weather or not these appeals should be heard by the Board of Appeals. Mr. Sparling stated this is not an evidentiary hearing. Mr. Miedzinski stated he does not quite understand these appeals. Mr. Sparling stated we are here to decide weather or not to dismiss the requests for appeal. Mr. Sparling stated there will be no testimony, public comment, or deliberation by the Board on the merits of the cases.

Mr. Weiskopf stated he is representing the Planning Commission and are requesting that the two appeals be dismissed. Mr. Weiskopf explained the applicants went before the Planning Commission requesting an amendment to the Comprehensive Water and Sewer Plan. Mr. Weiskopf stated after the hearings the Planning Commission made a motion to deny the requests however, the motion did not pass and no other motions were made. Mr. Weiskopf stated the process normally includes hearings by the Planning Commission who make recommendations to the County Commissioners however, in this case the Planning Commission never made a recommendation. Mr. Weiskopf stated there is no decision to appeal, as the Planning Commission did not make a decision. Mr. Weiskopf asked that the cases be dismissed. Mr. Sparling asked if the Board of County Commissioners are bound by a decision of the Planning Commission. Mr. Weiskopf stated no the County Commissioners can make their own decision and are not bound by the Planning Commissions decision.

Mr. Norris submitted background information for CWSP #08-200-003 for the record, hereby labeled as Exhibit 1 by the Recording Secretary and background information for CWSP #08-200-004 for the record, hereby labeled as Exhibit 2 by the Recording Secretary. Mr. Norris

Mr. Thompson asked if the Planning Commission discussed possibly continuing the case to an evening when the seventh member could be present to vote. Mr. Norris stated no. Mr. Thompson stated his opinion is that the Planning Commission's decision was incomplete. Mr. Norris stated

he has outlined all the issues in the appeals. Mr. Sparling asked about 228 MD 574 and asked if the motion was to approve or to deny. Mr. Norris stated he does not recall the motion in this case.

Mr. Miedzinski stated he believes we should send this back to the Planning Commission for a decision. Mr. Thompson agreed stating the Planning Commission did not make a final decision. Mr. Sparling stated per the citing Mr. Norris gave tonight the applicant can move forward to the Board of County Commissioners.

Mr. Guy asked if the Planning Commission should have convened with only six members present. Mr. Weiskopf stated a quorum consists of four members and there were six members present. Mr. Norris stated the applicant did not object to six members voting on the case.

Mr. Sparling stated he reviewed all the information and gave his opinion and legal recommendation regarding the cases. Mr. Sparling stated he does not believe the Board of Appeals has the authority to override the Planning Commission's advisory position. Mr. Sparling stated he thinks the Board of Appeals lacks jurisdiction in this case and that there has been no final action to appeal. Mr. Sparling recommended the appeal be dismissed.

***Mr. Edmonds made a motion to dismiss the appeal and make a recommendation that the case go back before the Planning Commission and Mr. Miedzinski seconded. The motion passed by a 5-0 vote.***

Mr. Sparling stated after speaking with the recording secretary, the motion should be clarified to include both cases.

***Mr. Edmonds made a motion to dismiss both appeals and make a recommendation that the cases go back before the Planning Commission and Mr. Miedzinski seconded. The motion passed by a 5-0 vote.***

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

The minutes of August 13, 2009 were approved as recorded.

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

CUAP #09-131-032 – Brick House Pit #2

VAAP #07-2857 – Errington

VAAP #09-0904 - Elrod

#### **ADJOURNMENT**

The meeting was adjourned at 7:30 p.m.

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Jada Stuckert, Recording Secretary

Approved in open session: August 27, 2009

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Howard Thompson  
Chairman