

**MINUTES OF THE ST. MARY'S COUNTY BOARD OF APPEALS MEETING
CHESAPEAKE BUILDING * LEONARDTOWN, MARYLAND
Thursday, December 11, 2008**

Members present were George Hayden, Chairman; Wayne Miedzinski, Veronica Neale, Ronald Payne and George T. Edmonds. Department of Land Use & Growth Management (LUGM) staff present were Phil Shire, Acting Director; Yvonne Chaillet, Zoning Administrator; and Jada Stuckert, Recording Secretary. Attorney George Sparling was also present.

Chairman Hayden asked for a moment of silence to remember Mr. Denis D. Canavan, Director of Land Use and Growth Management who unexpectedly passed away on December 3, 2008.

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 #08-1865 - Anderson

The applicant is requesting variance to add impervious surface in the Critical Area Buffer and to disturb the Critical Area Buffer to construct a deck, stairwell and walkway. The property contains 20,042 square feet; is zoned Rural Preservation District (RPD), Limited Development Area (LDA) Overlay; and is located at 24810 Half Pone Point Road, Hollywood, Maryland; Tax Map 27, Grid 12, Parcel 315.

Owner: Leon G. Anderson
Present: Robin Guyther

The property and variance were advertised in The Enterprise on November 26, 2008 and December 3, 2008.

Mr. Guyther gave an overview stating the owners were cited and paid the fines for the stairwell, stoop, second story deck, and walkway. Mr. Guyther stated he read the staff report and asked it be corrected to state the deck will be 15 above ground rather than 5 feet. Ms. Chaillet read the staff report which recommended approval of the variance.

Mr. Miedzinski made a motion to accept the staff report as findings of fact in this matter and Ms. Neale seconded. The motion passed by a 5-0 vote.

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

Mr. Miedzinski made a motion in the matter of VAAP #08-1865 having made a finding that the standards for granting a variance in the Critical Area and the objectives of Section 71.8.3 of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move to approve the variance request to add impervious surface in the Critical Area Buffer and to disturb the Critical Area Buffer to construct a deck and steps and for approval of an "after-the-fact" stairwell, stoop, second story deck and walkway, and that the new deck shall be 12 x 20 feet with ¼ inch spacing between planks, subject to adherence to the Critical Area Planting Agreement and Buffer Management Plan and Mr. Edmonds seconded. The motion passed by a 5-0 vote.

VAAP #08-2219 Cusic

The applicant is requesting variance to add lot coverage in the Critical Area Buffer and to trade more than 1,000 square feet of lot coverage in the Critical Area Buffer and to exceed the lot coverage limit on the property to construct a deck, carport, and garage. The property contains 1.22 acres; is zoned Rural Preservation District (RPD) and Limited Development Area (LDA)

Overlay; and is located at 25029 Briscoe Road, Hollywood, Maryland; Tax Map 27, Grid 5, Parcel 45.

Owner: Joseph M. Cusic
Present: Anita Sullivan

The property and variance were advertised in The Enterprise on November 26, 2008 and December 3, 2008.

Ms. Sullivan gave an overview of the project stating this is a major renovation where the garage will be placed over existing impervious surface. Ms. Sullivan stated the gravel parking area will be removed and seeded as lawn. Ms. Chaillet submitted Exhibit A – 08-2219 Cusic site visit by JBB 12-8-08 photographs.

Ms. Chaillet read the staff report which recommended approval of the variances. Ms. Chaillet stated the partial removal of the driveway from the carport area of 129 sq. feet would make this compliant. Ms. Sullivan stated this is 1,500 sq. feet as it is 108 x 14. Mr. Sparling asked if the applicant is vacating the request to exceed the lot coverage. Ms. Sullivan stated yes.

Mr. Hayden opened the hearing to public comment, hearing none, closed the hearing to public comment. **Ms. Neale made a motion to accept the staff report as findings of fact in this matter and Mr. Miedzinski seconded. The motion passed by a 5-0 vote.**

Mr. Miedzinski made a motion in the matter of VAAP #08-2219 having made a finding that the standards for granting a variance in the Critical Area and the objectives of Section 71.8.3 and Section 41.5.3.i (3) (b) of the St. Mary's County Comprehensive Zoning Ordinance have been met, and further, that, based on the evidence presented, the Applicant has overcome the presumption that the proposed activity for which a Critical Area variance is requested does not conform to the purpose and intent of the Critical Area law, I move to approve the variance request to add lot coverage in the Critical Area Buffer and to trade more than 1,000 square feet of lot coverage in the Critical Area Buffer with the condition that the Applicant remove the existing gravel along the side of the retaining wall between the retaining wall and the creek and that the deck have ¼ inch spacing between the planks and Ms. Neale seconded. The motion passed by a 5-0 vote.

ZAAP #06-132-017 – FDR Holdings, LLC (Colonial Square Office Building)

The request was for a concept plan approval for an office building; remanded by Circuit Court to the Board of Appeals for further proceedings consistent with the Circuit Court's opinion reversing the Board of Appeals decision on February 14, 2008 to uphold the Planning Commission's denial of a concept site plan for an office building. The property contains .72 acres; is zoned Downtown Core Mixed Use (DMX) District; and is located at 21975 FDR Boulevard, Lexington Park, Maryland; Tax Map 43, Block 22, Parcel 83.

Owner: FDR Holdings, LLC
Present: John Norris III

The property and appeal were advertised in The Enterprise on October 8, 2008 and October 15, 2008. Ms. Chaillet stated this is a continuance of a public hearing held October 23, 2008 and continued to tonight.

Mr. Sparling stated he reviewed all the information provided by staff and will now submit the following exhibits for the record.

Exhibit 1 – Former exhibit K site plan
Exhibit 2 – Memo dated 5/4/06 from LUGM to The Applicant
Exhibit 3 – Staff report dated 5/14/07

- Exhibit 4 – Memo dated 6/13/07 from Bob Bowles to Planning Commission
- Exhibit 5 – Planning Commission minutes of 6/25/07
- Exhibit 6 – Planning Commission minutes of 7/9/07
- Exhibit 7 – Former exhibit 13 property data search
- Exhibit 8 – Former exhibit 19 photographs of the subject property
- Exhibit 9 – Former exhibit 18 letter dated 3/2/2000 from Department of the Army
- Exhibit 10 – Former exhibit AA letter dated 1/5/07 to from Department of the Army

Mr. Sparling stated for the record, all Board of Appeals members have reviewed the three (3) Planning Commission meetings on DVD as well as all documents and exhibits submitted for these meetings. The Applicant and The Board agreed. Mr. John Norris asked that the 9/27/07 transcript of the 9/27/07 Board of Appeals meeting be entered into the record as Exhibit 11. The Board agreed.

Mr. Shire addressed Section 60.5 of the Ordinance items 4.a-d stating the applicant has met all applicable standards as the alignment of FDR Boulevard is no longer relevant.

Ms. Neale made a motion in the matter of ZAAP #06-132-017, FDR Holdings, LLC, having found that the St. Mary's County Planning Commission erred in its July 9, 2007 decision denying the concept site plan for a proposed office building, and consistent with the September 5, 2008 opinion of the honorable C. Clarke Raley, Circuit Court for St. Mary's County, I move to approve Concept Site Plan 06-132-017, having found that the objectives of Section 60.5.4 of the St. Mary's County Comprehensive Zoning Ordinance have been met.

In addition 60.5.4.a-d

- a. Is consistent with the Comprehensive Plan and applicable functional plans;***
- b. May be served by adequate public facilities as required by Section 70.2.2;***
- c. Will promote the health, safety, and welfare of the general public; and***
- d. Is consistent with County-wide design objectives.***

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

MINUTES AND ORDERS APPROVED

The minutes of November 20, 2008 were approved as recorded.

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

- VAAP #04-0876 – Konecny
- VAAP #07-0834 – Cannon
- VAAP #08-1123 – Fischer

ADJOURNMENT

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

Jada Stuckert, Recording Secretary

Approved in open session: January 8, 2009

Wayne Miedzinski
Acting-Chairman

