

**MINUTES OF THE ST. MARY'S COUNTY BOARD OF APPEALS MEETING
ROOM 14 * GOVERNMENTAL CENTER * LEONARDTOWN, MARYLAND
Thursday, December 13, 2007**

Members present were George Hayden, Chairman; George T. Edmonds, Wayne Miedzinski, Ronald Delahay, and Veronica Neale. 2nd Alternate Ronald Payne was also present. Department of Land Use & Growth Management (LUGM) staff present were Denis Canavan, Director; Yvonne Chaillet, Zoning Administrator; and Jada Stuckert, Recording Secretary. Christy Holt Chesser, County Attorney 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

VAAP #07-2334 - Ulrich

The applicant is requesting variance to clear vegetation in the buffer and to add impervious surface in the Critical Area Buffer to construct additions to a single-family dwelling and to reduce the front yard setback to construct a garage. The property contains 38,486 square feet; is zoned Rural Preservation District (RPD), Limited Development Area (LDA) Overlay; and is located at 22150 Miller Court, Leonardtown, Maryland; Tax Map 40, Block 17, Parcel 50.

Owner: Peter and Amy Ulrich

The property was advertised in The Enterprise on November 28, 2007 and December 5, 2007.

Mr. Ulrich gave a brief overview of the property stating his family has expanded over the years and he is now in need of expanding the home. Mr. Ulrich stated he would like to add a detached garage with a reduced setback, deck, and additional living space. Mr. Ulrich submitted Exhibit #1- Photos of the House and Exhibit #2-Aerial Photos which showed the right-of-way. Mr. Ulrich stated the proposed driveway would give him access to his property.

Ms. Chaillet read the staff report which recommended approval. After discussion, **Mr. Miedzinski made a motion to accept the staff report and adopt the findings of fact contained therein as the Board's findings in this matter and Ms. Neale seconded. The motion passed by a 5-0 vote.**

Mr. Miedzinski made a point of clarification in the staff report stating #7 second paragraph should read "pull garage back" not "house". The Board agreed. Mr. Hayden opened the hearing for public comment, hearing none, closed the hearing to public comment.

After further discussion, **Ms. Neale made a motion in the matter of VAAP #07-2334, 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, subject to the Applicants complying with the Critical Area Planting Agreement and Mr. Edmonds seconded. The motion passed by a 5-0 vote.**

Ms. Neale Made a motion in the matter of VAAP #07-2334, 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 variance request to reduce the required 25-foot front yard setback to 0 feet and Mr. Edmonds seconded. The motion passed by a 5-0 vote.

ZAAP #07-0118 – Rice – Continued from October 11, 2007

Ms. Chaillet stated the legal description was entered into the record on October 11, 2007. Ms. Chaillet read the staff report stating Rice will remove two concrete pads after the appeal process is finished. Ms. Chaillet stated footnote 4 of Section 32.1 allows a setback of 5 feet unless a variance is received. Ms. Chaillet explained a variance was received in 1998 that granted relief for the garage. Ms. Chaillet stated at various times seven (7) Land Use & Growth Management staff members have visited the site, two (2) inspectors, as well as Ms. Chaillet and Mr. Canavan. Ms. Chaillet stated at the 10/11/07 meeting Mr. Kuzmick mentioned greywater discharge on the Rice property. Ms. Chaillet stated this was from the old owners and has since been fixed by the Rice's.

Mr. Edmonds clarified the purpose of the meeting stating this is just a decision on the adjustment of the garage and Mr. Rice has already agreed to the adjustment. After discussion, ***Ms. Neale made a motion to accept the staff report and adopt the findings of fact contained therein as the Board's findings in this matter and Mr. Miedzinski seconded. The motion passed by a 5-0 vote.***

Mr. Hayden opened the hearing for public comment. Mr. Kuzmick stated the site plan has been revised to meet the 5 foot setback. Ms. Chaillet agreed. Mr. Kuzmick submitted Exhibit #1 – Nonconforming Structure and stated according to Section 9 of the Ordinance stated non-conforming structures must be 10 feet between structures. Ms. Chaillet stated a variance was received in 1998 granting relief of this standard which makes the garage conforming. Mr. Kuzmick argued the Ordinance does not state a variance fixes the nonconforming setback issue because the Ordinance does not state “or as changed by a variance”. Mr. Kuzmick submitted Exhibit #2 – CZO Measurement Rules.

Mr. Kuzmick stated even after the wall of the garage is moved there will still be remaining uncovered slab where the garage used to sit. Mr. Kuzmick stated this slab will intrude in the required setback. Ms. Chaillet explained the measurements are required to be taken from the property line to the nearest wall or structure. Mr. Kuzmick argued the definition of structure and setback. Ms. Veith explained a concrete slab is not a structure and requires no building permit for installation. Ms. Veith explained a concrete slab is treated as a driveway or walkway meaning the impervious surface would be calculated however a building permit is not required.

Mr. Kuzmick submitted Exhibit #3 – Grandfathered Lots not in BMO and asked how the Rice property was zoned Buffer Management Overlay. Ms. Veith explained a study was done compiling all lots in St. Mary's County that were less than 200 feet in length or width in the buffer area. Ms. Veith stated the study was done by a planner based on criteria set forth by the state for smaller lots. Mr. Kuzmick submitted Exhibit #4 – Memo to Health Department dated 10/17/07 and thanked the Board for their time.

Mr. Rice testified the greywater pipe was pumping the washing machine into the river. Mr. Rice explained when he realized this, it was fixed so that the washer drains into the septic system and the only water coming out of the pipe today is water from the sump pump in the basement. Mr. Rice submitted Exhibit 5- Photo of building permits in the window of the house. Mr. Kuzmick stated there were no building permits for the house. Mr. Rice stated he did have permits to build the house as it sits today. Mr. Kuzmick stated you can't issue permits for something when there are already open violations. Ms. Veith stated the record at Land Use & Growth Management has all the permit files.

Mr. Rice submitted Exhibit 6-Two Contractor Bids including the required Permits. Mr. Hayden closed the hearing to public comment.

After further discussion, ***Mr. Miedzinski made a motion in the matter of ZAAP #07-0118, to continue the hearing to January 10, 2008 where this case would be first on the agenda for a decision and Ms. Neale seconded. The motion passed by a 5-0 vote.***

MINUTES AND ORDERS APPROVED

The minutes of November 29, 2007 were approved as presented.

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

CUAP #07-131-036 – Loveville Produce Auction
VAAP #06-0966 – Wood
VAAP #07-0138 – Melton – Paintball Facility
CUAP #06-132-029 – Yoder-Stoltzfus Surface Mine

ADJOURNMENT

The meeting was adjourned at 8:45 p.m.

Jada Stuckert, Recording Secretary

Approved in open session: January 10, 2008

George Allan Hayden
Chairman