

**MINUTES OF THE ST. MARY'S COUNTY BOARD OF APPEALS MEETING
CHESAPEAKE BUILDING * LEONARDTOWN, MARYLAND
Thursday, March 10, 2011**

Members present were Howard Thompson, Chairman; Wayne Miedzinski, Ronald Payne, Veronica Neale, and George T. Edmonds. Randy Guy was excused. Department of Land Use & Growth Management (LUGM) staff present were Yvonne Chaillet, Zoning Administrator; Kelly Palmer, Environmental Planner; 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 6:35 p.m.

PUBLIC HEARINGS

VAAP#09-1485 – Lynch (*Continued from January 27, 2011*)

Mr. Thompson stated Mr. Guy was unable to attend tonight's meeting therefore Mr. Payne will be sitting in for tonight's continuance. Mr. Sparling stated to be clear; we have resumed the case regarding the Lynch property and asked if there was any objection from the County, Critical Area Commission or the Applicants. With no objections to Mr. Payne sitting in on this portion of the hearing, the Board moved forward with the hearing.

Chairman Thompson opened the case continued from January 27, 2011. Mr. Sparling clarified tonight's hearing would consist of the second set of variance requests to include the replacement dwelling.

Ms. Palmer stated the applicants are requesting variance relief from Section 71.8.3 of the Ordinance to replace the existing single-family dwelling with a two-story single-family dwelling and attached deck and portico and to construct a detached two-story garage, a detached deck, an outdoor bathroom containing a shower and toilet, a fountain structure, and a pond.

Mr. Longmore asked, for the record, that all previous exhibits be utilized for this hearing.

Joseph Lynch (Under Oath from January)

Mr. Lynch gave a Power Point presentation and submitted a hardcopy of the presentation for the record, *hereby labeled as Exhibit 1 by the Recording Secretary*. Mr. Lynch characterized the property as long and skinny with flat areas on the property away from the slopes which are entirely in the 100-foot buffer. Mr. Lynch stated there is a triangular area of the property that is in the critical area but outside the buffer and the property currently has over 400 stems per acre and will have over 525 stems per acre after the accepted Planting Agreement is completed. Mr. Lynch stated the variance request actually reduces the lot coverage from 13.3% to less than 12%.

Mr. Lynch stated he is asking to construct a detached garage, install a storm-water management rainwater harvesting system, replace the existing dwelling with an attached portico over the existing driveway, construct a plumbed outhouse toilet adjacent to the existing pool, plumb-in an outdoor rinse station in the vicinity of the existing pool, install a new septic system for the replacement dwelling, and construct a low-profile detached deck.

Mr. Edmonds asked what the term "stems" means in the presentation. Mr. Lynch stated "stems" means trees or shrubs. Mr. Thompson asked Mr. Longmore to explain the lot coverage of the proposed deck. Mr. Lynch stated the deck will not be considered lot coverage because there are slats for the water to go through and the surface underneath the deck will not be disturbed.

Pat Mudd

Mr. Mudd testified that the rainwater harvest pond will provide stormwater management for the impervious surface from the driveway and part of the house. Mr. Mudd stated this pond is

designed to accumulate rainwater. Mr. Longmore asked if this is a typical stormwater management system for this type of property. Mr. Mudd stated it is not typical for this property considering this property is reducing its lot coverage however if this was a new lot construction this type of stormwater management system would in fact be typical.

Chairman Thompson opened the hearing to public testimony, hearing none, closed the hearing to public testimony.

Mary Owens (Under Oath from January)

Ms. Eisenhower referenced staff report attachment nine (9) dated September 17, 2010. Ms. Owens stated the Critical Area Commission has not seen the plan that is being shown tonight. Ms. Owens stated the CAC is not opposing the replacement residential structure and attached deck. Ms. Owens explained it is not clear why the portico is an unwarranted hardship. Ms. Owens stated this would be a new structure in the buffer which is a permanent disturbance in the buffer and this is not an unwarranted hardship. Ms. Owens stated the CAC is against the detached garage with a second story gym as it is not an unwarranted hardship. Ms. Owens stated there are other areas on the property to relocate the garage outside the buffer. Ms. Owens stated if the garage were moved outside the buffer a variance would not be necessary. Ms. Owens stated she wonders why the applicant is requesting the stormwater management system when it is clear that Mr. Lynch is capable of designing a system under a structure. Ms. Owens stated the CAC is recommending denial of the outhouse as it is not an unwarranted hardship especially considering the house is right there with bathrooms available in it. Ms. Owens stated the detached deck is opposed because it is a structure and a permanent structure in the buffer and does not meet the unwarranted hardship requirement. Ms. Owens stated we are supposed to consider if all these requests are requests to use the property. Ms. Owens stated everything is above and beyond a reasonable use of the property.

Mr. Longmore stated the portico is designed to be attached to the house and would be covering existing lot coverage because it is over the driveway. Ms. Owens stated the applicants have an option to put the entire garage outside the buffer. Mr. Longmore asked if the shower and bath house were attached to the house would they be looked at more favorably. Ms. Owens stated yes. Ms. Chaillet asked if DPW&T normally approve a fountain in the harvesting system. Mr. Mudd stated that there is no fountain proposed in this pond, only a pump. Ms. Chaillet stated in this case the applicant needs to submit a new revised site plan.

Mr. Miedzinski asked Ms. Owens about the shower and outdoor bathroom asking where they could be placed against the house. Ms. Owens stated it would be nice if it was on the existing deck. Mr. Miedzinski asked about the garage. Mr. Thompson stated he has visited the property when it was raining and questioned cutting into the hill to place the garage. Ms. Owens stated the gutters could be run into downspouts that run into the stormwater management system.

Mr. Longmore gave a summation and review of the standards stating the placement of the house and the septic system seems to be supported by all sides.

Mr. Eisenhower please considers the September 17th memo and not approved. No objection to the house and septic. There is no hardship for the other requests. We want to keep as many structures as possible out of the buffer.

Mr. Sparling commented to determine a hardship you have to consider if the applicant can have a reasonable use of the property? Mr. Sparling stated a hardship is not depriving someone of something that someone else may have.

The members reviewed the comments and testimony as well as reviewing the standards for variance prior to making the following motion.

Mr. Miedzinski made a motion in the matter of VAAP#09-1485, Lynch, to continue the hearing to March 24, 2011 and Ms. Neale seconded. The motion passed by a 5-0 vote.

DISCUSSION

Clarify procedure for the upcoming Rice/Kusmick case on the 24th. The court sent it back to have you adopt a new order to make findings of fact.

MINUTES AND ORDERS APPROVED

The minutes of January 27, 2011 were approved as recorded.

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

None

ADJOURNMENT

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

Jada Stuckert, Recording Secretary

Approved in open session: March 24, 2011

Howard Thompson
Chairman