

**MINUTES OF THE ST. MARY'S COUNTY BOARD OF APPEALS MEETING
CHESAPEAKE BUILDING * LEONARDTOWN, MARYLAND
Thursday, May 8, 2014**

Members present were George Allan Hayden, Chairman; Randy Guy, Robert Moreland, William Greene, and Ronald Payne. Alternate John Brown 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

VAAP #05-0386 - Sohl

Ms. Yvonne Chaillet, LUGM was sworn for the record. The applicant is requesting a variance to disturb the Critical Area Buffer to construct a single-family dwelling. The property contains 1.32 acres; is zoned Rural Preservation District, Limited Development Area Overlay; and is located at 44825 Three Coves Road, Hollywood, Maryland; Tax Map 27, Grid 10, Parcel 127.

Owner: Mr. and Mars. Paul A. Sohl
Present: Jeff Errington, Agent for the Applicants

The property and variance request were advertised in The Enterprise on April 23, 2014 and April 30, 2014. Ms. Chaillet submitted the certification of property posting and mailing receipts for the record, *hereby labeled as Exhibit 1 by the Recording Secretary*. Ms. Chaillet gave an overview of the staff report dated April 25, 2014 and the specific standards for granting variances in the critical area and the critical area buffer. Ms. Chaillet submitted the staff report for the record, *hereby labeled as Exhibit 2 by the Recording Secretary*.

Mr. Errington was sworn for the record. Mr. Errington gave a brief PowerPoint Presentation addressing the standards for requesting the variance. Mr. Errington explained that the Sohl's purchased the property with a half built slab already on the property. Mr. Errington stated the previous owner failed to continue building the home and errantly let the building permit lapse.

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

Mr. Guy made a motion in the matter of VAAP #05-0386, Sohl Property, 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 disturb the Critical Area Buffer to construct a single family dwelling and Mr. Moreland seconded. The motion passed by a 5-0 vote.

CUAP #12-135-001 – Piney Point Cell Tower *Continued from March 13, 2014 and April 10, 2014 hearings*

Mr. Moreland recused himself from voting on case CUAP #12-135-001, Piney Point Cell Tower. Alternate John Brown who has been present for all meetings pertaining to the case stepped in as a voting member.

BREAK

Attorney George Sparling explained the rules as they pertain to Conditional Use requests. Mr. Wyrrough agreed with Mr. Sparling indicating some of the requests from the Board are not relevant and the applicant cannot be put in this position because the Board has no right to ask for some of the information.

Chairman Hayden opened the hearing for presentation by the applicant. Mr. Wyrrough indicated there are a number of areas in the statute that we believe we have to show in order to have the conditional use granted. Mr. Wyrrough stated we have submitted evidence to address item (G, H). Mr. Wyrrough stated the visual impacts of the tower are irrelevant under Maryland law however information as it pertains to the back-up generator will be provided.

Mr. Dureja, Mr. Fisher, and Mr. Mudd were sworn for the record. Mr. Wyrrough provided the Board with a PowerPoint Presentation highlighting the requirements for requesting a conditional use and Mr. Dureja, Mr. Fisher and Mr. Mudd provided commentary. Mr. Fisher provided a PowerPoint Presentation explaining why this particular site was chosen. Mr. Dureja explained the balloon tests that were done stating in two sites the monopole was not even visible.

Chairman Hayden opened the hearing to public comment.

Mr. Howard Thompson

Mr. Thompson was sworn for the record. Mr. Thompson stated he is not in support or opposition but rather just to ask some questions. Mr. Thompson asked questions regarding the backup generators noise, distance from the monopole to the road, how will the pole collapse, possibly moving the site one eighth of a mile to the north onto the SMECO site and was a property value study done?

Mr. Wyrrough indicated the generator noise will be less than 30 decibels and only used when necessary. The monopole is 180 feet from the road and is designed to collapse on itself within an 80 foot radius. There was no property value study done. Mr. Dureja indicated the SMECO property is not in an ideal site for this monopole as it does not have the range that is necessary for this monopole.

Mr. Gregory Thompson

Mr. Thompson was sworn for the record. Mr. Thompson stated the cell coverage in this area is just fine and a tower in this area is not needed. Mr. Thompson indicated he does not want to look at a tower every day. Mr. Thompson stated he is a tax payer and does not want the monopole put in this area.

Mr. Bob Ulrich

Mr. Ulrich was sworn for the record. Mr. Ulrich questioned what is considered adjacent property for the balloon test indicating his property is 150 feet from the proposed site. Chairman Thompson indicated this is not within the Board's purview. Mr. Ulrich asked if there were regulations requiring the monopole to be a certain distance from a Historical Site? Mr. Wyrrough stated the NEPA report and FCC report have jurisdiction over this. Mr. Wyrrough mentioned that the Maryland Historical Trust has said that there would be no impact to any historical sites.

Mr. Matt Thorp

Mr. Thorp was sworn for the record. Mr. Thorp stated he and his family have lived in the area for seven years and on his way to and from work he will be forced to see this tower on a daily basis. Mr. Thorp asked if NewStar said no. Chairman Hayden indicated NewStar did not respond and are not required to respond to any offers. Mr. Thorp asked if the Goddard is agricultural or residential. Ms. Chaillet stated it is residential. Mr. Thorp stated he is strongly opposed to the proposed monopole.

Ms. Jennifer Misner

Ms. Misner was sworn for the record. Ms. Misner asked if Mr. Wyrrough could respond in further detail regarding the proposal to NewStar. Mr. Wyrrough stated three letters were sent to NewStar with no response. Mr. Wyrrough stated the Goddard's daughter responded stating she was not interested.

Chairman Hayden closed the hearing to public comment. Mr. Sparling asked that the Board defer their vote to the next meeting to give him time to review all the legal requirements regarding this application. Mr. Wyrrough stated he is in favor of this as long as he is able to be present when his findings are made. Mr. Sparling agreed.

Mr. Guy made a motion to continue the hearing to May 22, 2014 and Mr. Green seconded. The motion passed by a 5-0-1 vote with Mr. Moreland abstaining.

MINUTES AND ORDERS APPROVED

The minutes of April 10, 2014 were approved as recorded.

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

VAAP #05-3122 - Grant

ADJOURNMENT

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

Jada Stuckert, Recording Secretary

Approved in open session: May 22, 2014

George Allan Hayden
Chairman