

**MINUTES OF THE ST. MARY'S COUNTY BOARD OF APPEALS MEETING
CHESAPEAKE BUILDING * LEONARDTOWN, MARYLAND
Thursday, June 14, 2012**

Members present were George Allan Hayden, Chairman; Randy Guy, Robert Moreland, George T. Edmonds, and Ronald Payne. Alternate Mike Mummaugh 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 #11-1831 – Elrod

Mr. Moreland recused himself from voting on this matter, alternate member Mr. Mummaugh was present to hear the case. Ms. Kelly Palmer, LUGM was sworn for the record. The applicant is requesting a variance from Section 72.3.1.c of the Comprehensive Zoning Ordinance to clear more than 30 percent of the existing vegetation in the Critical Area. The property contains 18,874 square feet; is zoned Residential Neighborhood Conservation (RNC) District, Limited Development Area (LDA) Overlay; and is located at 40330 Half Moon Circle, Mechanicsville, Maryland; Tax Map 5A, Grid 1, Parcel 54.

Owner: James Glenn Elrod, Jr.
Present: Barry Vukmer, Chesapeake Trails Surveying, LLC

The property and variance were advertised in The Enterprise on May 30, 2012 and June 6, 2012. Ms. Palmer submitted the certification of property posting and mailing receipts for the record, *hereby labeled as Exhibit 1 by the Recording Secretary*. Ms. Palmer gave an overview of the staff report dated May 31, 2012 and the specific standards for granting variances in the Critical Area, site development standards for forest and woodland protection, and limited development areas and resource conservation areas. Ms. Palmer submitted the staff report for the record, *hereby labeled as Exhibit 3 by the Recording Secretary*.

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

Mr. Edmonds made a motion to accept the proposed findings of fact as findings of fact in this case and Mr. Guy seconded. The motion passed by a 5-0-1 vote with Mr. Moreland abstaining.

Mr. Guy made a motion in the matter of VAAP #11-1831, having made a finding that the standards for granting a variance in the Critical Area and the objectives of Section 72.3.1.c of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move to approve the variance request to clear 60.6 percent of the existing vegetation in the Critical Area, subject to the following conditions:

- 1. The Applicant shall provide a Planting Plan which shows the required 3:1 mitigation per square foot of the variance granted pursuant to Section 24.4.2.b of the Ordinance. The Planting Plan shall show which native species have been selected for planting, and where in the Critical Area Buffer the Applicant proposes to plant the vegetation; and***
- 2. The Applicant shall comply with the Critical Area Planting Agreement and approved Planting Plan.***

Mr. Edmonds seconded and the motion passed by a 5-0-1 vote with Mr. Moreland abstaining.

VAAP #10-1770 – Tri-County Builders

Ms. Kelly Palmer, LUGM was sworn for the record. The applicant is requesting a variance from Section 72.3.1.c of the Comprehensive Zoning Ordinance to clear more than 30 percent of the existing vegetation to construct a single-family dwelling and appurtenances in the Critical Area. The property contains 15,000 square feet; is zoned Residential Neighborhood Conservation (RNC) District, Limited Development Area (LDA) Overlay; and is located at 29860 Washington Road, Mechanicsville, Maryland; Tax Map 5A, Grid 6, Parcel 338.

Owner: CAI Inc. c/o Tri-County Builders (the “Applicant”)
Present: Barry Vukmer, Chesapeake Trails Surveying, LLC

The property and variance were advertised in The Enterprise on May 30, 2012 and June 6, 2012. Ms. Palmer submitted the certification of property posting and mailing receipts for the record, *hereby labeled as Exhibit 1 by the Recording Secretary*. Ms. Palmer gave an overview of the staff report dated June 1, 2012 and the specific standards for granting variances in the Critical Area, site development standards for forest and woodland protection, and limited development areas and resource conservation areas. Ms. Palmer submitted the staff report for the record, *hereby labeled as Exhibit 3 by the Recording Secretary*.

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

Mr. Edmonds made a motion to accept the proposed findings of fact as findings of fact in this matter and Mr. Guy seconded. The motion passed by a 5-0 vote.

Mr. Edmonds made a motion in the matter of VAAP #10-1770, Tri-County Builders, having made a finding that the standards for granting a variance in the Critical Area and the objectives of Section 72.3.1.c of the St. Mary’s County Comprehensive Zoning Ordinance have been met, I move to approve the variance request to clear 11,900 square feet or 79.3 percent of the existing vegetation to construct a single-family dwelling and appurtenances in the Critical Area, subject to the following conditions:

- 1. The Applicant shall provide a Planting Plan prior to the issuance of the building permit, which shows the required 3:1 mitigation per square foot of the variance granted pursuant to Section 24.4.2.b of the Ordinance. The Planting Plan shall show which native species have been selected for planting, and where on the Property the Applicant proposes to plant the vegetation. Areas without forest vegetation must be planted first prior to paying fees-in-lieu; and**
- 2. The Applicant shall comply with the Critical Area Planting Agreement and approved Buffer Management Plan; and**
- 3. The proposed clearing shall not exceed 79.3 percent of the existing vegetation.**

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

ZAAP #08-1441 – Seymour, Inc.

Ms. Yvonne Chaillet, LUGM was sworn for the record. The applicant is requesting an appeal from the decision of the Director of Land Use and Growth Management on January 20, 2012, that the location of a 12-foot high fence is in compliance with prior orders of the Board of Appeals. The property contains 10.7 acres; is zoned Town Center Mixed Use (TMX) District; and is located at 30085 Charlotte Hall Road, Charlotte Hall, Maryland; Tax Map 1, Grid 22, Parcel 13.

Owner: T & L Underwood Investments, LLC
Present: Brookie Ann Gregory; Daniel Fevrin of Dugan, McKissick & Longmore

The property and variance request were advertised in The Enterprise on March 30, 2012 and April 6, 2012. Ms. Chaillet submitted the certification of property posting and mailing receipts for the record, *hereby labeled as Exhibit 1 by the Recording Secretary.*

BREAK

Ms. Chaillet submitted the Planning Commission minutes of 9/28/98 for the record, *hereby labeled as Exhibit 2 by the Recording Secretary.*

Ms. Brookie Ann Gregory was sworn for the record. Ms. Gregory stated she is appealing the decision of the Planning Director that the fence is properly located on the property in question.

Mr. Phil Shire, LUGM was sworn for the record. Mr. Shire explained the automobile salvage yard is considered a high-intensity use and based on the approved site plan he determined that the fence is properly located on the property. Mr. Shire submitted the As-Built and Standard Site Plan approved by the Planning Commission on 9/28/98 for the record, *hereby labeled as Exhibit 3 by the Recording Secretary.*

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

Mr. Moreland made a motion in the matter of ZAAP #08-1441, Seymour, Inc, to deny the appeal and uphold the January 20, 2012 decision of the Planning Director that the location of a 12-foot high fence is in compliance with prior orders of the Board of Appeals and Mr. Guy seconded. The motion passed by a 5-0 vote.

MINUTES AND ORDERS APPROVED

The minutes of May 10, 2012 were approved as recorded.

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

VAAP #11-2116 Mazzocchi Property

ADJOURNMENT

The meeting was adjourned at 9:05 p.m.

Jada Stuckert, Recording Secretary

Approved in open session: June 28, 2012

George Allan Hayden
Chairman