

**ST. MARY’S COUNTY BOARD OF APPEALS**

In the Matter of the application of Beck & Beck, LLC for variances from Section 63.3 of the St. Mary’s County Comprehensive Zoning Ordinance to reduce the required buffer yard from MD Route 235 and to reduce the required buffer yard from the residential properties to the south and Schedule 32.1 to reduce the required rear yard setback and reduce the front yard setback from an arterial road.

Case No. VAAP #12-132-09  
South Gate Self Storage

**ORDER**

**WHEREAS**, Application VAAP #12-132-09 – South Gate Self Storage was duly filed with the St. Mary’s County Board of Appeals (the “Board”) by Beck & Beck, LLC (the “Applicant”), on or about August 5, 2013; and

**WHEREAS**, the Applicant seek variances from Section 63.3 of the St. Mary’s County Comprehensive Zoning Ordinance, as amended, (the “Ordinance”), to reduce the required buffer yard from MD Route 235; reduce the required buffer yard from the residential properties to the south of the subject property and variances from Schedule 32.1, footnote 4, to reduce the required rear yard setback in the Corridor Mixed Use (CMX) District from an abutting property in the Residential Low-Density District (RL) and to reduce the front yard setback from an arterial road. The property contains 3.25 acres; is zoned Corridor Mixed Use (CMX) District, Accident Potential Zone 2 (APZ-2) Overlay; and is located at 21179 Three Notch Road, Lexington Park, Maryland; Tax Map 52, Grid 8, Parcel 144 (the “Property”); and

**WHEREAS**, after due notice, a public hearing was conducted by the Board on Thursday, October 10, 2013, November 14, 2013 and December 12, 2013 in Main Meeting Room, Chesapeake Building, 41770 Baldrige Street, of the Governmental Center in Leonardtown, Maryland, at 6:30 p.m., and all persons desiring to be heard were heard, documentary evidence received, and the proceedings electronically recorded.

**NOW, THEREFORE**, having reviewed the testimony and evidence presented at the hearing, the following facts, findings, and decision of the Board are noted:

**SUMMARY OF TESTIMONY**

Yvonne Chaillet, Zoning Administrator, summarized the Staff Report.

**SUMMARY OF DOCUMENTARY EVIDENCE**

The Board accepted into evidence the following exhibits:

- Exhibit No. 1 – Affidavit of Property Posting and Mailing Receipts
- Exhibit No. 2 – Staff Report
- Exhibit No. 3 – Letter from Department of the Navy dated 11/13/13

**FINDINGS OF FACT**

The subject property (the “Property”) is a vacant parcel located at the corner of Md. Route 235, an arterial road, and Wheeler Drive, a local road. The Property is in the Corridor Mixed Use (CMX) District and is bound on its south side by Hermanville Estates, a subdivision in the Residential, Low-Density (RL) District.

The Applicant plans to develop the Property with four, single-story buildings, which will be used for personal storage. The buildings are labeled on the site plan as Building “A” - 3,240 square feet, Building “B” - 21,000 square feet; Building “C” - 21,000 square feet; and Building “D” - 7,630 square feet. The combined square footage of the buildings is 52,890 square feet.

The Planning Commission approved the Concept Site Plan by a vote of 5 in favor and 2 opposed at its November 25, 2013 meeting.

#### CONCLUSIONS OF LAW

The Board addresses the Special Standards for Granting Variances, which are set forth in Section 24.3 of the Ordinance, finding as follows:

- a. Because of particular physical surroundings, such as exceptional narrowness, shallowness in size, shape or topographical conditions of the property involved, strict enforcement of this Ordinance will result in practical difficulty;*

The Property is exceptionally narrow and shallow.

For these reasons, the Board finds that, because of particular surroundings such as exceptional narrowness, shallowness, size, shape or topographical conditions of the property involved, strict enforcement of this Ordinance will result in practical difficulty.

- b. The conditions creating the difficulty are not applicable, generally, to other properties within the same zoning classification;*

CMX-zoned properties abutting RL- or RNC-zoned properties, which are proposed for development, require expanded rear yard and side yard setbacks and buffers from the RL or RNC designated properties. However, the shape of the Property is unusual for a parcel in the CMX zoning district.

For these reasons, the Board finds that the conditions creating the difficulty are not applicable, generally, to other properties within the same zoning classification.

- c. The purpose of the variance is not based exclusively upon reasons of convenience, profit or caprice. It is understood that any development necessarily increases property value, and that alone shall not constitute an exclusive finding;*

The Property is zoned for commercial development along the County’s principal travel corridor. Development of this particular Property is restricted when standard setback and buffer requirements are applied to a parcel of this configuration.

For these reasons, the Board finds that the purpose of the variances is not based exclusively upon reasons of convenience, profit or caprice.

- d. The alleged difficulty has not been created by the property owner or the owner’s predecessors in title;*

The alleged difficulty is the result of the existing configuration and standard setback and buffer requirements.

For these reasons, the Board finds that the alleged difficulty has not been created by the property owner or the owner’s predecessors in title.

- e. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood and the character of the district will not be changed by the variance;*

The front property line abuts a major thoroughfare. Reduction of the front setback and buffer requirements will have no adverse effect on other nearby properties. The rear property line abuts residential development. The purpose of the expanded rear yard setback and the expanded buffer is to protect the residents of the subdivision from potential adverse impacts that could result from the proximity of the commercial development to their homes. Such impacts may be visual or could result from sound, traffic, or lighting. A reduction of the rear setback and buffer requirements will defeat the purpose of protecting residential properties from the visual and sound effects associated with commercial activities.

For these reasons, the Board finds that the granting of all variances will not change the character of the CMX zoning district and that the granting of variances of front setback and buffer requirements will not be detrimental to the public welfare or injurious to other improvements in the neighborhood, but that the granting of variances of rear setback and buffer requirements will be detrimental to the public welfare or injurious to other improvements in the neighborhood.

- f. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood;*

The front property line abuts a major thoroughfare. The proposed use as a self-storage facility does not generate significant traffic and attendant highway congestion, and does not require construction or facilities that are associated with fire hazards.

For these reasons, the Board finds that the granting of variances of front setback and buffer requirements will not substantially impair property values within the neighborhood, but that the granting of variances of rear setback and buffer requirements will substantially impair property values within the neighborhood.

- g. The variance complies, as nearly as possible, with the spirit, intent, and purpose of the Comprehensive Plan;*

The Comprehensive Plan encourages growth and development in the development districts and the Property is located in the Lexington Park Development District. The Plan also supports preserving the rural character of the County and requiring commercial development to be screened to some extent from the view of the traveling public. Additionally, Section 4.1.1 of the Comprehensive Plan addresses the goals and policies for development in the Development Districts. One of the policies noted in this section calls for maintaining visual and functional qualities of development through adherence to site standards for landscaping, architectural design, on-site and off-site advertising, access, lot coverage and open space, and buffering from adjacent developments and transportation corridors. Another policy stipulates that development should allow for and provide adequate buffers to avoid conflicts between different land use types and to provide visual screening.

For these reasons, the Board finds that the granting of variances of front setback and buffer requirements complies, as nearly as possible, with the spirit, intent, and purpose of the Comprehensive Plan, but that the granting of variances of rear setback and buffer requirements does not comply with the spirit, intent, and purpose of the Comprehensive Plan.

#### DECISION

**NOW, THEREFORE, BE IT ORDERED,** that,

1. A variance to reduce the front setback line from 50 feet to 30 feet for the proposed use is **GRANTED**.

Those voting to grant the variance: Mr. Hayden, Mr. Guy, Mr. Greene, and Mr. Payne  
Those voting to deny the variance: Mr. Moreland

2. A variance to reduce the front buffer from a 65 foot B Buffer to a 30 foot C Buffer with fence for the proposed use is **GRANTED**.

Those voting to grant the variance: Mr. Hayden, Mr. Guy, Mr. Greene, and Mr. Payne  
Those voting to deny the variance: Mr. Moreland

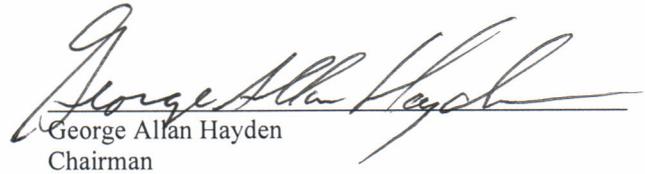
3. A variance to reduce the rear setback line from 70 feet to 30 feet is **DENIED**.

Those voting to grant the variance: Mr. Guy and Mr. Greene  
Those voting to deny the variance: Mr. Hayden, Mr. Moreland and Mr. Payne

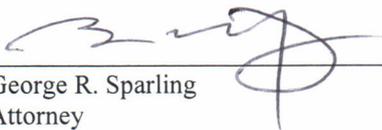
4. A variance to reduce the rear buffer from a 60 foot C Buffer to a 30 foot C Buffer with fence is **DENIED**.

Those voting to grant the variance: Mr. Guy and Mr. Greene  
Those voting to deny the variance: Mr. Hayden, Mr. Moreland and Mr. Payne

This Date: March 13, 2014

  
George Allan Hayden  
Chairman

Approved as to form and legal sufficiency:

  
George R. Sparling  
Attorney