

**MINUTES OF THE ST. MARY'S COUNTY BOARD OF APPEALS MEETING  
ROOM 14 \* GOVERNMENTAL CENTER \* LEONARDTOWN, MARYLAND  
Thursday, August 9, 2007**

Members present were George Hayden, Chairman; Wayne Miedzinski, George Edmonds, Ronald Delahay, and Veronica Scriber. 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 #07-0766 - Alley**

The applicant is requesting a variance from Section 72.3 of the Comprehensive Zoning Ordinance to clear in excess of 30 percent of the existing vegetation to construct a single-family dwelling in the Critical Area. The property contains 18,705 square feet; is zoned Residential Neighborhood Conservation (RNC) District, Limited Development Area (LDA) Overlay; and is located at 29908 Shoreview Drive, Mechanicsville, Maryland; Tax Map 5A, Block 06, Parcel 340.

Owner: Michele Alley  
Present: William Higgs

The property was advertised in The Enterprise on July 25, 2007 and August 1, 2007.

Mr. Higgs gave an overview of the project including the mound system. Mr. Miedzinski stated there is a nice pine tree in the rear corner he would like to see saved if possible.

Ms. Chaillet read the staff report which recommended approval. After discussion, **Mr. Miedzinski made a motion to accept the staff report and Ms. Scriber seconded. The motion passed by a 5-0 vote.**

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

After further discussion, **Ms. Scriber made a motion in the matter of VAAP #07-0766, Alley, having made a finding that the standards for variance in the Critical Area and the objectives of Section 72.3 of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move that the variance to clear in excess of 30 percent of the existing woodland be approved with the recommended condition to adhere to the Critical Area Planting Agreement and Mr. Miedzinski seconded. The motion passed by a 5-0 vote.**

**VAAP #06-132-028 – Charlotte Hall Station**

The applicant is requesting a variance from Section 63.4 of the St. Mary's County Comprehensive Zoning Ordinance to reduce the required buffer from a 75-foot "B" buffer to a 15-foot "A" buffer. The property contains 12.2 acres; is zoned Town Center Mixed Use (TMX) District; and is located on the Southwest corner of the intersection of Charlotte Hall Road and Golden Beach Road in Charlotte Hall, Maryland; Tax Map 01, Block 22, Parcel 323.

Owner: Manekin LLC, C/o Alton Fryer III  
Present: Jonathan Blasco and Alton Fryer

The property was advertised in The Enterprise on July 25, 2007 and August 1, 2007.

Mr. Blasco gave an overview of the project addressing buffer comparisons and stating the Planning Commission has approved the concept site plan. Mr. Blasco submitted Exhibit "A" site plan buffer and Exhibit "B" buffer comparison for the record.

Ms. Chaillet read the staff report which recommended approval. After discussion, **Mr. Miedzinski made a motion to accept the staff report and Ms. Scriber seconded. The motion passed by a 5-0 vote.**

Mr. Hayden opened the hearing to public comment. Ann Gregory testified she has concerns with the buffer facing Charlotte Hall Road. Ms. Gregory stated she does not understand why Charlotte Hall Road is not considered a "Major Collector" and asked who classifies the roads as "Major Connectors". Ms. Gregory stated she is also concerned with the pond and asked if there would be water in it all the time. Mr. Blasco stated DPW&T would be the ones that classify the roads and the pond would have a limited amount of water in it at all times, more like a marsh. Ms. Gregory asked how long the buffer would have to stay in place. Mr. Canavan cited section 63.3.b of the Ordinance which states the buffer shall be maintained while the site is in use. After further discussion Mr. Hayden closed the hearing for public comment.

Mr. Miedzinski stated he would like to see buffering facing Charlotte Hall Road. After further discussion, **Mr. Miedzinski made a motion in the matter of VAAP #06-132-028, Charlotte Hall Station, having made a finding that the standards for variance and the objectives of Section 63.4 of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move that the variance to reduce and substitute the required 75-foot "B" buffer with a 15-foot "A" buffer be approved with the condition to also provide an "A" type buffer along Charlotte Hall Road except for the south side of the loading dock area which can be 10-feet and Mr. Edmonds seconded. The motion passed by a 5-0 vote.**

#### **CUAP #06-131-009 – Verizon Wildewood Water Tower Site**

The applicant is requesting a conditional use approval pursuant to Chapter 25 of the Comprehensive Zoning Ordinance to add cellular antennas to an existing water tower. The property contains .49 acres; is zoned Planned Unit Development (PUD) and Residential, Low Density (RL) District; and is located on White Elm Court, California, Maryland; Tax Map 34, Block 14, Parcel 604.

Owner: St. Mary's County Metropolitan Commission  
Present: Steven Resnick

The property was advertised in The Enterprise on July 25, 2007 and August 1, 2007.

Mr. Resnick submitted the following Exhibits:

Exhibit A Letter from EEE Consulting, Inc. to Ms. Chaillet dated July 20, 2006  
Exhibit B As Built Site Plan dated January 19, 2007  
Exhibit C Letter from Jackie Karp at Network Building & Consulting, LLC to Ian Frost at EEE Consulting dated August 10, 2006 referencing the RF Compliance Certificate and Non-Interference Study  
Exhibit D Letter from Brian E. Silvering at Morris & Ritchie Associates, Inc to Joseph Joyce, PC at Verizon Wireless dated April 27, 2007 referencing CUAP #06-131-009 Verizon Wildewood Elevated Water Tank Site

Mr. Resnick introduced Barb Pivec and asked that she give the board an overview of the history of this project. Ms. Pivec explained Verizon is utilizing an existing water tower to place their antennas for better coverage within the area. Ms. Pivec stated Verizon would have to build a new tower if this existing water tower was not available to them. Ms. Pivec stated METCOM has recently decided that they do not want a buffer close to the fence due to Homeland Security

reasons. Mr. Miedzinski asked if the site is already built. Ms. Pivec stated yes, the antennas are in place, the two buildings are constructed and operating, and the fence is in place.

Mr. Resnick introduced Jose Espino, RF Engineer for Verizon Wireless and asked that he explain the lack of wireless coverage. Mr. Espino discussed the lack of wireless coverage in the southern portion of St. Mary's County and stated the site will close the gap on Routes 235 and south of Route 235.

Mr. Resnick introduced John Groovy, Real Estate Appraiser and asked that he give an overview of his findings. Mr. Groovy stated there would be no effect on the property values at the site in question. Mr. Groovy stated he has based his decision on comparative properties with new towers nearby. Mr. Groovy stated his decisions are based on new tower sites and not on co-locating by water tower so there definitely should be no property value loss.

Ms. Chaillet read the staff report which recommended approval. After discussion, **Mr. Miedzinski made a motion to accept the staff report and Ms. Scriber seconded. The motion passed by a 5-0 vote.**

Mr. Hayden opened the hearing to public comment. Dick Nevala testified he and his wife are Verizon Wireless customers and the reception in the area is not the greatest at this time so they are in support of the project. Mr. Nevala testified the site is not unsightly in the least.

Merl Erichsen testified he is in favor of the project and he is upset that only three property owners showed up to hear the case a year ago. Mr. Erichsen stated not being notified is no excuse when there is a large sign posted on the project property.

Joe Capristo, attorney for Mr. Camaioni, addressed his legal arguments regarding said deficiencies in the project application and staff report per the Ordinance stating none of the eight standards for conditional use have been met. Mr. Capristo submitted the following Exhibits:

- Exhibit E            Appraisal package to Henry & Michelle Camaioni from James B. Hooper dated June 25, 2007
- Exhibit F            James B Hooper Qualifications

Mr. Capristo introduced Henry Camaioni and asked that he state his issues with the project. Mr. Camaioni testified to the proximity, view, impact, and traffic of the project. Mr. Camaioni stated he can hear the generator from the project while he is in his house. Mr. Camaioni stated the appearance of the two buildings and the fence is disturbing. Mr. Edmonds asked if Verizon built the fence. Mr. Camaioni stated Verizon replaced the old fence with a larger chain link fence.

Mr. Capristo argued that 25.6.2 of the Ordinance should apply to this case which requires the tower be designed to collapse upon itself. Mr. Hayden stated 25.6.2 of the Ordinance does not apply because this is not a new tower, it is an existing tower. Mr. Hayden further stated the antennas on top of the existing water tower would not fall outside the fenced area. Mr. Capristo stated he also questions the legality of the easement. Mr. Capristo submitted the following Exhibits for the record:

- Exhibit G            Deed dated June 29, 2006 by and between Wildewood Residential LLC and St. Mary's County Metropolitan Commission
- Exhibit H            Minor Subdivision Plat containing the proposed utility easement dated March 30, 2006

Mr. Capristo stated the application for a conditional use permit should be denied on the grounds that this is an improper taking. Mr. Capristo introduced James Hooper, Real Estate Appraiser, and asked that he discuss the appraisal done for Mr. Camaioni as entered into the record as Exhibit E. Mr. Hooper stated his appraisals estimate a property value decrease of \$34,000.00 due

to the antennas, traffic, noise, fence, and the two buildings. Mr. Hayden stated a tree buffer would hide the buildings and the fence. Mr. Hooper argued there would still be the traffic and noise. Mr. Delahay asked which of the appraisals he is to believe in and why they are so different. Mr. Hooper stated the appraisals were done by different appraisers and done on different comparative properties.

Roy Presler testified he is concerned with the radiation from the antennas.

Jay Samak testified the antennas are an aesthetic problem and stated the buffer should be put in place. Mr. Samak stated a buffer would not be a homeland security issue if someone would be monitoring the site.

Chris Harritt testified he is concerned with the fence and the buildings and how they do not match the characteristics of the surrounding property. Mr. Hayden closed the hearing for public comment.

Five (5) minute recess.

Jeff Barnes testified the easement is on Mr. Camaioni's property which is METCOM's easement.

Joe Joyce, Verizon Engineer, testified pre and post inspections of the water tower tank were completed to make sure the structure was sound. Mr. Joyce stated METCOM requested Verizon replace the existing fence. Mr. Joyce stated the 60KW motor generator only runs one day a week, normally Tuesday, for about one hour and the generator is located inside one of the buildings. Mr. Joyce further stated that the generator noise would emanate towards the woods due to its location. Mr. Joyce stated the only traffic would be a small SUV when there is a problem with the equipment.

Mr. Espino stated Verizon's antennas meet all the state and federal FCC requirements. Mr. Espino explained there are three sections to the antennas which face separate degrees including 344°, 104°, and 220° which have 16db gain antennas. Mr. Espino stated basically the antennas would have to be less than 66 ft. from the ground to cause radiation to humans. Mr. Espino stated the heights in this case are more than doubled. Mr. Espino stated the only way radiation would harm someone is if they were in extremely close contact with the antennas.

Mr. Capristo argued that METCOM has no easement to Mr. Camaioni's property. Mr. Canavan asked Mr. Capristo to read plat note #10 on a plat approved in 1987 which states METCOM has a utility easement for the property.

After further discussion Mr. Capristo submitted the following Exhibits for the record:

Exhibit I	Poster Board photo of the Verizon utility buildings and fence (Large)
Exhibit J	Poster Board photo of the Verizon fenced area showing the entire base of the water tower (Large)
Exhibit K	Poster Board photo of the Water Tank prior to antennas (Small)
Exhibit L	Poster Board photo of the Water Tank after antennas are placed (Small)
Exhibit M	Poster Board photo of the existing utility building (not Verizon's) (Small)

After further discussion, ***Mr. Miedzinski made a motion in the matter of CUAP #06-131-009, Verizon Wireless – Wildewood Water Tower Site, having made a finding that the Conditional Use Standards of Section 25.6 of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move to approve the request to add cellular antennas to an existing water tower and Ms. Scriber seconded. The motion passed by a 5-0 vote.***

**MINUTES AND ORDERS APPROVED**

The minutes of July 26, 2007 were approved as recorded.

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

VAAP #06-132-033 – Watts Commercial Center  
VAAP #04-0739 - Suite  
CUAP #03-132-028 – Phillip Moore Mining Operation  
VAAP# 03-132-028 – Phillip Moore Mining Operation  
VAAP #06-3144 - Friedman

**ADJOURNMENT**

The meeting was adjourned at 10:30 p.m.

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Jada Stuckert, Recording Secretary

Approved in open session: August 23, 2007

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George Allan Hayden  
Chairman