

**MINUTES OF THE ST. MARY'S COUNTY BOARD OF APPEALS MEETING
CHESAPEAKE BUILDING * LEONARDTOWN, MARYLAND
Thursday, August 28, 2008**

Members present were George Hayden, Chairman; Ronald Delahay, Veronica Neale, George T. Edmonds and Alternate Ronald Payne. Wayne Miedzinski was excused. Department of Land Use & Growth Management (LUGM) staff present were Denis Canavan, Director; Yvonne Chaillet, Zoning Administrator; and Jada Stuckert, Recording Secretary. George Sparling, 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 #06-1699 - Lee

Ms. Chaillet stated the applicant has withdrawn their application for this variance.

VAAP #08-0939 - Deep

The applicant is requesting variance to clear more than 30 percent of the existing vegetation to construct a single-family dwelling and appurtenances. The property contains 10,000 square feet; is zoned Residential Neighborhood Conservation district (RNC), Limited Development Area (LDA) Overlay, Buffer Management Overlay (BMO); and is located at 24167 North Patuxent Beach Road, California, Maryland; Tax Map 35, Grid 3, Parcel 3.

Owner: Anthony and Janice Deep/Joel and Evelyn Signor
Present: William Higgs

The property was advertised in The Enterprise on August 13, 2008 and August 20, 2008.

Mr. Higgs gave a brief overview of the project stating there are only eight (8) trees on the property which is why the variance is needed to clear in excess of 30 percent of the property.

Ms. Chaillet read the staff report which recommended approval of the variance. ***Ms. Neale made a motion to accept the staff report as findings of fact in this case and Mr. Edmonds seconded. The motions passed by a 5-0 vote.***

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

Ms. Neale made a motion in the matter of VAAP #08-0939, having made a finding that the standards for granting a variance in the Critical Area and the objectives of Section 72.3.1 of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move to approve the variance request to clear more than 30% of woodland on the property, subject to the following conditions:

- 1. The Applicant shall provide a planting plan for review and approval by Land Use & Growth Management; and***
- 2. The Applicant shall comply with the Critical Area Planting Agreement.***

Mr. Edmonds seconded. The motion passed by a 5-0 vote.

VAAP #07-2857 – Errington

Mr. Hayden stated the property was not posted for the proper amount of time. Mr. Hayden informed Mr. Errington that a new application would have to be submitted as well as properly reposting the property. Mr. Errington stated the property was posted for the required thirty (30)

days. Mr. Hayden stated none of the Board members saw the posting therefore the property would have to be re-posted and Mr. Errington would have to re-submit the application.

VAAP #05-132-011 – Toyota of Southern Maryland

The applicant is requesting variance to reduce the required buffer yard by eliminating the requirement for a solid visual barrier. The property contains 6.9 acres; is zoned Corridor Mixed Use District (CMX); and is located at 22466 Three Notch Road, Lexington Park, Maryland; Tax Map 43, Grid 9, Parcels 44, 45, 157, 281, and 426 .

Owner: 235 Realty, LLC
Present: Peter D'Artista

The property was advertised in The Enterprise on August 13, 2008 and August 20, 2008.

Mr. D'Artista gave an overview of the project stating he was unaware of the fence requirement when the application was filed and would like this corrected in the staff report. Mr. D'Artista submitted Exhibit A – Four (4) photos of property buffer area up close on a poster board and Exhibit B- Four (4) photos of property buffer from a distance. Mr. D'Artista stated this is a car dealership that displays merchandise outdoors and needs to be visible to passersby. Mr. D'Artista stated a stockade style fence would only detract from the tasteful landscaping. Mr. D'Artista stated the absence of the fence could only improve visibility entering and exiting the property and would result in fewer accidents. Mr. D'Artista submitted Exhibit C – Site plan with two (2) photos on a poster board.

Ms. Chaillet read the staff report which recommended denial of the request. Mr. Hayden asked how wide the State Highway Administration (SHA) buffer is. Mr. D'Artista stated it is thirty (30) feet wide. Mr. Hayden stated he likes what the applicant has done with the buffer space and asked staff what buffer type the WaWa had to provide. Ms. Chaillet stated the WaWa is a low intensity use therefore no buffer is required.

Mr. Edmonds asked if staff would accept solid trees for a buffer rather than a fence. Mr. Hayden opened the hearing to public comment. Mr. Andy Reavis stated he is a neighbor and likes the landscaping in the front of the building and agrees with the variance request. Mr. Hayden closed the hearing to public comment.

Mr. D'Artista stated he would be willing to plant more vegetation, trees, and shrubs in the buffer to satisfy the intent. Mr. Hayden stated the applicant could raise the berm on the backside of the buffer and plant faster growing native trees and shrubs. Mr. Hayden also recommended canopy trees be planted.

Mr. Edmonds stated he does not agree with having a fence on this property within the buffer. Mr. Canavan stated if the Board would like to see the plantings bolstered staff could re-word the staff report to reflect the Board's feelings and return to another meeting. Mr. Sparling recommended if the Board is going to wait for a revised staff report that they continue the case to a date certain.

Ms. Neale made a motion in the matter of VAAP #05-132-011 to continue the hearing to September 25, 2008 and Mr. Edmonds seconded. The motion passed by a 5-0 vote.

MINUTES AND ORDERS APPROVED

The minutes of August 14, 2008 were approved as recorded.

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

VAAP #08-1319 – Givens
CUAP #06-132-007 – Winstead Surface Mine

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CUAP #08-132-007 – Hodges Surface Mine
VAAP #08-132-007 – Hodges Surface Mine

ADJOURNMENT

The meeting was adjourned at 7:40 p.m.

Jada Stuckert, Recording Secretary

Approved in open session: September 11, 2008

George Allan Hayden
Chairman