

1 August 9, 2013



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3 **Talbot County Planning Commission**
4 **Final Decision Summary**

5 Wednesday, May 1, 2013 at 9:00 a.m.

6 Wye Oak Room, Community Center

7 10028 Ocean Gateway, Easton, Maryland

8
9 **Attendance:**

10 Commission Members:

- 11
- 12 Thomas Hughes
- 13 William Boicourt
- 14 Michael Sullivan
- 15 John Trax
- 16 Paul Spies

17 Staff:

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- 19 Sandy Coyman, Planning Officer
- 20 Mary Kay Verdery, Assistant Planning Officer
- 21 Brett Ewing, Planner I
- 22 Carole Sellman, Recording Secretary
- 23
- 24

25 **1. Call to Order**—Commissioner Hughes called the meeting to order at 9:07 a.m.

26
27 **2. Decision Summary Review**—April 3, 2013—The Commission noted the following
28 corrections to the draft decision summary:

- 29 a. Line 64, (108’9” gross floor area), Commissioner Trax asked that we check the
30 record for the correct gross floor area measurement; the correct amount is 47
31 square feet.
- 32 b. Line 101, change “moved” to “recommend”
- 33 c. Line 130, change “strips” to “vegetation”
- 34 d. Line 241, revise to read, “Commissioner Trax moved to grant preliminary and
35 final approval of the three (3) lot subdivision with private road of Robert L.
36 Kennedy, Howell Point and Crosiadore Roads, with staff comments being
37 complied with, seconded by Commissioner Boicourt. The motion carried
38 unanimously.”
- 39 e. Line 273, revised to read, “Resolution No. 202, the Cahall lot at the corner of
40 Aveley Farm Road.”

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42 Commissioner Trax moved to approve the Draft Planning Commission Decision
43 Summary for April 3, 2013, as amended; Commissioner Boicourt seconded the
44 motion. The motion was carried unanimously.

45
46 **3. Old Business**—None was brought before the Commission.

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48 **4. New Business**

- 49
- 50 a. Administrative Variance—Neil R. Clark and Susan G. Burlingame, A184—7692
51 Latch String Lane, Bozman, MD 21612, (map 31, grid 22, parcel 36, zoned
52 Agricultural Conservation), Ron Carrion, Contractor/Agent.

54 Mr. Ewing presented the staff report of the applicant's request to construct two
55 shed dormers with a total of 64.5 square feet of new gross floor area. The
56 proposed expansions comply with lot coverage and will be located no closer to
57 mean high water than the existing dwelling at 37 feet.

58
59 Recommended staff conditions include:

- 60
61 1. The applicant shall make an application to the Office of Planning and Permits,
62 follow all rules, procedures, and construction timelines as outlined regarding
63 new construction.
64 2. The applicant shall commence construction of the proposed improvements
65 within eighteen (18) months from the date of the Office of Planning and
66 Permits' "Notice to Proceed".
67

68 Commissioner Hughes questioned since there was no change in lot coverage why
69 was this case before the Commission. What does expansion mean? Mr. Ewing
70 explained the County regulates vertical expansion as well, even though it does not
71 alter the building's footprint. As of 2009, the Code included the limitation of 20%
72 gross floor area expansion within the buffer, vertical or horizontal.
73

74 Commissioners Boicourt and Hughes believed that since no additional impervious
75 surface was being added could this be handled by staff review. Ms. Verdery stated
76 that the Critical Area Commission required a public hearing for nonconforming
77 structures within the 100 foot shoreline development buffer and that it is required
78 by Code. Critical Area would ultimately like to have all nonconforming structures
79 out of the buffer.
80

81 Mr. Carrion had nothing to add to the staff report. There were no public
82 comments.
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84 Commissioner Boicourt moved to recommend to the Planning Officer to approve
85 the administrative variance for Neil R. Clark and Susan G. Burlingame, 7692
86 Latch String Lane, Bozman, Maryland, with staff conditions, Commissioner Trax
87 seconded. The motion carried unanimously.
88

- 89 b. Administrative Variance, KOPI, LLC, A185—6813 Hopkins Neck Road, Royal
90 Oak, MD (map 41, grid 21, parcel 25, zoned Agricultural Conservation), Tim
91 Saulsbury, Contractor/Agent.
92

93 Mr. Ewing presented the staff report for the applicant's proposal to construct an
94 enclosed second story porch creating 159 square feet of new gross floor area. The
95 proposed expansion complies with lot coverage, and it will be located no closer to
96 mean high water than the existing dwelling at 72 feet.
97

98 Staff recommendations include:
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- 100 1. The applicant shall make an application to the Office of Planning and Permits
101 and follow all rules, procedures, and construction timelines as outlined
102 regarding new construction.
103 2. The applicant shall commence construction of the proposed improvements
104 within eighteen (18) months from the date of the Office of Planning and
105 Permits' "Notice to Proceed".
106

107 Bill Stagg appeared on behalf of the applicant who proposes enclosing two second
108 floor decks, no additional floor space is being added. There were no public
109 comments.
110

111 Commissioner Trax moved to recommend to the Planning Officer to approve the
112 administrative variance for KOPI, LLC, 6813 Hopkins Neck Road, Royal Oak,
113 Maryland, provided compliance with all staff conditions occurs; Commissioner
114 Spies seconded. The motion carried unanimously.
115

- 116 c. Administrative Variance, Harry Broadman, A186—25553 Bushey Heath Road,
117 Royal Oak, MD (map 40, grid 5, parcel 4, zoned Agricultural Conservation), Bob
118 Gearhart, Contractor/Agent.
119

120 Mr. Ewing presented the staff report of the applicant's request to construct a 305
121 square foot screen porch addition. The proposed expansions comply with lot
122 coverage and will be located no closer to mean high water than the existing
123 dwelling at 56 feet. There was a previous administrative variance No. A095,
124 approved July 7, 2007, to modify the roof line.
125

126 Recommended staff conditions include:
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- 128 1. The applicant shall make an application to the Office of Planning and Permits
129 and follow all rules, procedures, and construction timelines as outlined
130 regarding new construction.
131 2. The applicant shall commence construction on the proposed improvements
132 within eighteen (18) months from the date of the Office of Planning and
133 Permits' "Notice to Proceed".
134 3. Natural vegetation of an area three times the extent of the additional
135 disturbance allowed shall be created in the buffer or on the property if
136 planting in the buffer cannot be reasonably accomplished. A Critical Area
137 Buffer Management Plan application may be obtained at the Office of
138 Planning and Permits.
139 4. The applicant shall not enclose the proposed porch with a full or half wall
140 (knee wall) without obtaining additional variances from Talbot County.
141

142 Commissioner Boicourt stated that in instances like this it was usually requested
143 that a tradeoff of impervious surfaces, driveways, walkways, etc. be made. Mr.
144 Bob Gearhart (who appeared on behalf of the applicant) stated that a portion of
145 the driveway had been taken out for the previous variance.

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Commissioner Boicourt moved to recommend to the Planning Officer to approve the administrative variance for Harry Broadman, 25553 Bushey Health Road, Royal Oak, Maryland, with all staff conditions, Commissioner Sullivan seconded. The motion carried unanimously.

- d. Administrative Variance, Courtland and Elaine Lee, A187—23528 Scotts Lane, St. Michaels, MD (map 31, grid 5, parcel 3, zoned Agricultural Conservation), Lauren Dianich, Atelier 11 Architecture, Agent.

Mr. Ewing presented the staff report of the applicant’s proposal to construct a 317 square foot addition, two wooden steps (94 square feet), a shed dormer and driveway and walkway removal and modifications. The proposed expansions comply with lot coverage requirements and will be located no closer to mean high water at 27.8 feet or the side setback at 14.7 feet than the existing dwelling. The proposed lot coverage complies with the permitted 15% for the site with a proposed net decrease of 15 square feet; the lot coverage for the 100 foot buffer is currently legally nonconforming, the applicant is proposing a net decrease of 15 square feet for the buffer area. There is a previous administrative variance case #A159 approved November 5, 2010 to expand the primary dwelling by 382 square feet and to expand and convert the garage to bedrooms that was approved. The applicant requested and received a single 18 month extension last April. The applicant wishes to maintain the approval of the previous administrative variance #A159 for the garage expansion only. Therefore approval of this case #A187 will result in the previous primary dwelling expansion becoming null and void.

The staff recommendation, should the Administration Variance be approved, includes the following:

1. The applicant shall make an application to the Office of Planning and Permits, follow all rules, procedures, and construction timelines as outlined regarding new construction.
2. The applicant shall commence construction on the proposed improvements within eighteen (18) months from the date of the Office of Planning and Permits’ “Notice to Proceed”. This applies to the primary dwelling modifications only. The garage improvements must be completed by October 20, 2013.
3. The applicant shall remove 382 square feet of driveway and 193 square feet of sidewalk prior to issuance of occupancy.
4. The applicant shall build the 94 square feet of deck to meet the Maryland Chesapeake Bay Critical Area Commission’s standards for pervious decks as follows:
 - a. Install decking with a minimum of 1/4” spacing between the decking strips;
 - b. Install approved native plants around the perimeter of the deck to minimize runoff.

192 5. Approval of administrative variance case #A187 (current request) will result
193 in the previous primary dwelling expansion (only) in administrative variance
194 case #A159 to become null and void.

195
196 Lauren Dianich representing applicants, Courtland Lee and Elaine Lee stated that
197 the original design did not allow for the air conditioning units and access from the
198 house, so a redesign was required. There were no public comments.

199
200 Commissioner Boicourt moved to recommend the Planning Officer approve the
201 administrative variance to expand nonconforming structure for Courtland and
202 Elaine Lee, 23528 Scotts Lane, St. Michaels, Maryland, with staff conditions,
203 Commissioner Trax seconded. The motion carried unanimously.

204
205 e. Final Major 5 Lot Subdivision Plat with Private Road—Thomas C. and Maria M.
206 Mitchell, M1145—1807 Chancellor Point Road, Trappe, MD (map 62, grid 17,
207 parcel 19, Lot 11, zoned Agricultural Conservation), Bill Stagg, Lane
208 Engineering, LLC, Agent.

209
210 Mr. Ewing presented the staff report of the applicant’s request for a final plat
211 review of a five (5) lot subdivision with private road. The Planning Commission
212 granted preliminary plat approval on February 6, 2013. All development rights
213 will be consumed by this plan. The applicant received a lot size waiver from the
214 Planning Commission at the February 6, 2013 meeting for Lots 12, 15 and 16.
215 The applicant will require a variance from the Board of Appeals for the road
216 drainage and utility easements impacts to nontidal wetland buffers

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218 Staff recommendations include:

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220 1. Address the April 10, 2013 Technical Advisory Committee comments of the
221 Office of Planning and Permits, Department of Public Works, Environmental
222 Health Department, Talbot Soil Conservation District, the Environmental
223 Planner and the Critical Area Commission prior to final plat submittal.
224 2. A Maryland Department of the Environment permit (or documentation stating
225 otherwise) and a variance is required to upgrade the driveway to a private road
226 in the nontidal wetlands buffer in the Critical Area prior to Compliance
227 Review Meeting submittal.

228
229 Mr. Stagg stated he had in error believed that the variance must be received
230 before final approval. The plan now includes relocation of wastewater percolation
231 points on lots 13 and 14. The sewage disposal areas have been shifted enlarging
232 the building envelopes to address the Commission’s concerns. The sewage
233 disposal areas have been reconfigured on lots 13 and 14 due to an existing
234 irrigation well discovered on Lot 12. The sewage disposal areas have therefore
235 been relocated on lots 12, 13, and 14. Commissioner Hughes verified with that
236 Critical Area Commission had indicated no problem with these changes. Mr.

237 Ewing stated the Critical Area staff is aware of the changes and did not have
238 negative comments.
239
240 Commissioner Spies moved to approve the final plat for the major five (5) lot
241 subdivision with sewage disposal areas relocated on Lots 12, 13 and 14 for
242 Thomas C. and Maria M. Mitchell, with the provision that compliance with staff
243 recommendations occurs; Commissioner Trax seconded. The vote resulted in four
244 Commissioners in favor and Commissioner Sullivan opposed. The motion carried.
245

246 f. Bill No. 1232 to Zoning Text Amendment Process, Recommendation to the
247 County Council—Mary Kay Verdery, Assistant Planning Officer
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249 Ms. Verdery stated the County Attorney prepared a bill for amendments to
250 Section 190-173, to clarify the code amendment process, which includes text,
251 zoning maps, growth allocation and solid waste disposal.
252

253 The process provides three approaches for such amendments:

- 254 1. The first will be used when the amendment broadly affects the County's
255 general welfare. In this case, County Council directs staff to prepare and
256 lead the amendment process.
- 257 2. The second addresses amendments that focus on a specific property or a
258 narrow set of land uses, zoning or other topic that primarily affects one or
259 a few land owners. In this case, the applicant shall be lead party with staff
260 providing input to the applicant for the amendments, development and
261 review.
- 262 3. The third addresses amendments considered by the County Council to be
263 inconsistent with this chapter and/or the comprehensive plan. Such
264 amendments will not be processed.
265

266 Ms. Verdery noted that this bill was heard and approved at the April 9th County
267 Council meeting; a public hearing was held at that time and the bill was moved to
268 third reader. Therefore the Planning Commission's review is after the fact.
269

270 Commissioner Hughes expressed concern that valuable amendments may be
271 dismissed without proper review. Commission Trax agreed. Commissioner
272 Boicourt stated that he trusts the staff but also sees the potential for lack of proper
273 review for potential amendments.
274

275 Ms. Verdery replied that text amendment applications are made to the Council
276 and must have the support of at least one Council member to proceed to a vote.
277 Currently amendments received by staff may progress through drafting and
278 significant preliminary work to find that they do not move forward at the Council
279 level. This often requires significant effort consuming limited staff resources.
280

281 Commissioner Hughes stated that it is the Planning Commission's particular role
282 to assess compatibility with the comprehensive plan. The bill transfers this

283 determination to the Council for text amendments. Commissioner Trax concurred
284 but noted the strain on staff resources is a valid concern. He noted that the
285 applicant would have the opportunity to lobby to get the amendment before the
286 Council. Mr. Coyman stated that the County Council believes if there is a
287 possibility of hearing it, they will likely choose to move the proposed amendment
288 forward.

289
290 Commissioner Trax stated that an applicant can reformulate their application
291 more thoroughly and resubmit. Ms. Verdery stated an applicant can approach all
292 or a single Council member for support of their application. Ms. Verdery will
293 copy this section and note it for reconsideration by the Planning Commission
294 during the comprehensive update of the zoning ordinance.

295
296 Commissioner Trax recommended to the County Council that they accept Bill
297 1232 as drafted with the following items to be considered during the next
298 comprehensive zoning code update:

- 299
- 300 1. The role and responsibilities of the Planning Commission should be
301 considered as the Council considers applications for consistency with the
302 Comprehensive Plan.
 - 303 2. A procedure shall be added to allow for the opportunity to reapply after or
304 within a certain time period based on the presence of defined standards. (e.g.
305 An application for a substantially identical request shall not be submitted for
306 reconsideration for a period of twelve months; or an applicant must provide
307 documentation supporting a significant change in circumstances or character
308 of the area or of the request, before resubmitting an application for
309 consideration which was previously denied.)

310
311 The motion was seconded by Commissioner Boicourt and unanimously approved.
312

- 313 g. Forest Harvest Sign Requirement and Amendment to Chapter 128, Right to Farm
314 of the Talbot County Code, to Explicitly Add Silviculture—Recommendation to
315 County Council—Talbot County, Maryland—Sandy Coyman, Planning Officer.
316

317 Mr. Coyman stated the County Council reviewed the Planning Commission's
318 recommendation and directed staff to prepare a mandatory sign program bill for
319 their review. The Council also accepted an amendment to the right to farm chapter
320 to specifically include silviculture. Planning staff have met with both forestry and
321 logging interests and will meet with Mr. Codispotti, President, Sailors Retreat
322 Homeowners Association. The logging representatives have volunteered to help
323 with development of the website materials to respond to inquiries. We will
324 coordinate with the above interests and prepare a fleshed out proposal for the
325 Planning Commission's June meeting. It is anticipated that the sign will be similar
326 to the zoning announcement, with large, clear lettering, and the website address.
327 There is ongoing discussion of the length of time for posting, varying from 48
328 hours to 30 days, logging permit and weather is an issue, in determining time.

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Commissioner Spies was disappointed the County Council made signage mandatory. He believed the logging community, staff and Commission were working well together on a voluntary basis and we were losing an opportunity. Commissioner Trax believed we still should be able to say to the County Council we don't agree with the mandatory signage.

Mr. Coyman stated that the Commission and staff is to bring a mandatory program back to the County Council but at that time the Commission could recommend to strike the word mandatory from the sign requirement.

Terri Batchelor, Upper Shore Project Manager Forrester, State of Maryland, Department of Natural Resources, primarily for the four upper shore counties stated that a good working relationship has developed between Talbot County and the forest interests. Ms. Batchelor said the sign program in Queen Anne was setup so it was posted two weeks prior to logging. She stated they have been working with Talbot County staff regarding the website that could include a checklist of requirements such as if the property is in a nontidal wetlands, has a sensitive species, or any other items of importance.

Commissioner Hughes asked if the signage in Queen Anne was mandatory. Ms. Batchelor stated that to the best of her knowledge it was for properties in the Critical Area that are deed restricted open space. Commissioner Hughes said there are so few logging operations in the County that it would not be a burden to loggers if a sign was mandatory and we would avoid another Sailors Retreat situation.

Ms. Batchelor stated that Queen Anne has the mandatory signage in the critical area, maybe Talbot could do the same, while Dorchester County has a voluntary program. Commissioner Boicourt commended her for being so understanding of the homeowner's position.

Leocadia Codispoti said the residents of Sailors Retreat all woke up to chain saws without any warning whatsoever. The logging company had a year and gave no warning. She believed there was nothing bad about putting up a mandatory sign; it doesn't put an extra burden on the logger. If there is a cost why doesn't the owner pay for it?

Commissioner Boicourt moved to table the forest sign requirement discussion to the June Planning Commission meeting, Commissioner Sullivan seconded. All were in favor.

- h. Talbot County—Black Walnut Point Cell Tower—Sandy Coyman, Planning Officer

374 Mr. Coyman stated the County Council has discussed this cell tower, it is
375 specifically designed to facilitate navigation and is only for navigation equipment.
376 County will not take any further action or make any statement.

377
378 Commissioner Boicourt believed it would be nice for the public to know why it is
379 necessary for the tower to be so large. Commissioner Hughes would like to know
380 if the County has any say on a tower being built on this property. Mr. Coyman
381 said it was a Coast Guard property not subject to County ordinance. Mr. Ewing
382 stated the State Historic Preservation Office was listed as a project commenter.

383
384 Commissioner Hughes believed the Navy sight is underutilized, if not abandoned.
385 Why does everyone have their own tower? We need to make sure the public
386 knows there is nothing the County can do about it. We need to let the public know
387 who to contact about it, and directly contact those who sent letters to the
388 Commissioners.

389
390 Commissioner Sullivan asked why wireless communication facilities cannot be
391 collocated on it also. Commissioner Hughes said he checked with Mr. Coyman
392 who had checked with the state and was told radar and wireless communication
393 facilities were incompatible.

394
395 Commissioner Boicourt recommended the Commission express their concerns to
396 the County Council about the proposed 140 foot radar tower at Black Walnut
397 Point, and noted that the County has limited control over the construction and
398 should express our concerns, the citizens are greatly concerned, it is a huge visual
399 insult, as well as an environmental concern, if the County Council could explore
400 possibilities of other locations with congressmen and state legislature, seconded
401 by Commissioner Trax. The motion carried unanimously.

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403 **5. Discussions Items**
404 **6. Staff Matters**
405 **7. WorkSessions**
406 **8. Commission Matters**
407 **9. Adjournment**—Commissioner Hughes adjourned the meeting at 10:33 a.m.

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