

ST. MARY’S COUNTY BOARD OF APPEALS

In the Matter of the application of 21165 Medical Development, LLC for a variance from Schedule 32.1 of the St. Mary’s County Comprehensive Zoning Ordinance to reduce the required front yard setback and from Section 63.3 to reduce the required buffer yard along Great Mills Road.

Case No. VAAP #13-132-006
Medical Office Building at East Run

ORDER

WHEREAS, Application VAAP #13-132-006 – Medical Office Building at East Run was duly filed with the St. Mary’s County Board of Appeals (the “Board”) by 21165 Medical Development, LLC (the “Applicant”), on or about June 21, 2013; and

WHEREAS, the Applicant seeks a variance from Schedule 32.1 of the St. Mary’s County Comprehensive Zoning Ordinance, as amended, (the “Ordinance”), to reduce the required front yard setback and from Section 63.3 to reduce the required buffer yard along Great Mills Road. The property contains 4.31 acres; is zoned Residential Mixed Use (RMX) District, Residential, High-Density (RH) District, and the Corridor Mixed Use (CMX) District; and is located on the West side of Great Mills Road at its intersection with Chancellors Run Road; Tax Map 51, Grid 7, Parcel 619 and 017 (the “Property”); and

WHEREAS, after due notice, a public hearing was conducted by the Board on Thursday, July 11, 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. Amy DiPietro, for the Applicant, gave a PowerPoint Presentation explaining the project and variance requests. Brian Norris, for the Applicant, testified to the need for the variances.

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 – PowerPoint Presentation
- Exhibit No 4 – Streetscape Drawing

FINDINGS OF FACT

The Property, formerly the site of the Lord Calvert Mobile Home Park, is the location of a proposed three-story medical office building. The planned 45,870 square-foot building will measure 100 feet by 154 feet for a total footprint of 15,400 square feet. The Property fronts Great Mills Road which is classified as a minor arterial. The Property is part of a 78 acre tract on which a mixed use development is proposed. The tract is divided by a stream.

The proposed medical office building is located in the Lexington Park Development District. The draft Lexington Park Development District Master Plan 2030 (the “Master Plan”) recommends the creation of a new mixed use neighborhood development center, referred in the Master Plan as the Great Mills Gateway, at the

intersection of Chancellors Run Road and Great Mills Road. Site development in the Gateway should be planned with buildings located close to the sidewalk with strong connections to the street. The Applicant has designed the medical office building to complement the Master Plan.

Site development will require the installation of stormwater management facilities, the construction of entrances off Great Mills Road and private lanes to serve the medical facility, parking spaces and drive aisles, pedestrian access ways, landscaping, lighting, and buffer yards. The Applicant must also provide an ambulance bay and police bay to serve the proposed medical facility.

The proposed development was reviewed by the Technical Evaluation Committee (TEC) in May 2013. The Planning Commission reviewed and approved the Concept Site Plan with a 7 to 0 vote.

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 site must be evaluated in the context of the entire 78 acre tract, the various uses proposed for the entire tract, and limitations on the entire proposed development created by the physical surroundings, including existing streets, proposed streets, and the stream that traverses the tract. Compliance with setback and buffer requirements imposed by the Ordinance would conflict with both sound planning and safety considerations for both vehicular and pedestrian traffic.

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;***

The Property is part of a 78 acre tract on which a mixed use development is proposed.

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 purpose of the variance is enhanced safety considerations for both vehicular and pedestrian traffic.

For these reasons, the Board finds that the purpose of the variance 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 Property is part of a 78 acre tract that has remained unaltered.

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 variance will facilitate implementation of a Master Plan intended to redevelop the entire neighborhood.

For these reasons, the Board finds that the granting of the variance will not be detrimental to the public welfare or injurious to other improvements in the neighborhood and that the character of the district will not be changed by the variance.

- 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 proposed redevelopment of the Property, formerly the site of the Lord Calvert Mobile Home Park, will be in keeping with the Lexington Park Development District Master Plan as drafted. The Property is located along the segment of Great Mills Road intended to serve as the Great Mills Gateway. The site is designed to interconnect separate parcels planned for a mix of uses; the medical office building will be located close to the street; and the planted buffer along Great Mills Road will provide the desired streetscape, all in accordance with the Master Plan.

For these reasons, the Board finds that 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 property values generally with 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.

For these reasons, the Board finds that the variance complies, as nearly as possible, with the spirit, intent, and purpose of the Comprehensive Plan.

DECISION

NOW, THEREFORE, BE IT ORDERED, that, having made a finding that the standards for a variance of the St. Mary’s County Comprehensive Zoning Ordinance have been met, a variance is **GRANTED**:

1. to reduce the required front yard setback from 50 feet to 15 feet along Great Mills Road;
2. to reduce the required 65-foot Type B Buffer to a 15-foot Type A Buffer along Great Mills.

This Date: August 8, 2013



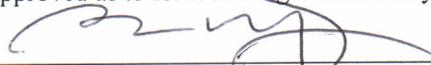
 James R. Guy
 Vice-Chairman

Those voting in favor of the request:

Mr. Guy, Mr. Greene, Mr. Payne, Mr. Moreland and Mr. Brown

Those voting against the requested variance:

Approved as to form and legal sufficiency:



 George R. Sparling, County Attorney