

ST. MARY'S COUNTY BOARD OF APPEALS

In the Matter of the Appeal by Dennis L. DePriest of the Planning Director's Decision to Approve a Boundary Line Adjustment Plat re: Lot Numbered Five (5), Parcel A, Plat Numbered Eight (8), Landings At Piney Point

Case No. ZAAP #12-141-028

DECISION AND ORDER

I. Introduction

Dennis L. DePriest (hereinafter "Appellant"), appealed the decision of the Planning Director to approve a boundary line adjustment plat re: Lot Numbered Five (5), Parcel A, Plat Numbered Eight (8), Landings At Piney Point.

After due notice, a public hearing was conducted by a Hearing Examiner on September 6, 2013, at the Governmental Center in Leonardtown, Maryland, and all persons desiring to be heard were heard, documentary evidence received, and the proceedings recorded electronically. The Hearing Examiner filed a Report dated October 28, 2013. After due notice, the evidence and the Report of Hearing Examiner was considered by the Board on December 12, 2013.

II. Legal Standard

The issues on appeal are:

1. Does the Appellant have standing to maintain this appeal?
2. Are the property owners at the time of the filing of the appeal, having conveyed all right, title and interest, in the subject property after the filing of the appeal, proper parties in the proceeding?
3. Did the Planning Director comply with the procedural requirements for approval of a boundary line adjustment plat set forth in §30.12 of Chapter 264 of the *Code of St. Mary's County, Maryland* (St. Mary's County Subdivision Ordinance).

An appeal is a de novo proceeding. The legal standard is whether the decision of the Planning Director is supported by the evidence.

II. Summary of Testimony: The testimony is summarized in the Report of the Hearing Examiner. At the hearing before this Board, Sean McDermott testified that a quitclaim deed conveying all right title and interest of Sean P. McDermott and Ava McDermott in that portion of the subject property adjacent to the western boundary line of Lot 5 as shown and described on the plat of subdivision had been executed and delivered to Andrew McFarland and Clarisa McFarland, and recorded among the land records of St. Mary's County.

III. Summary of Documentary Evidence: The documentary evidence is listed in the Report of the Hearing Examiner. At the hearing before this Board, a copy of a deed from Sean P. McDermott and Ava McDermott to Andrew McFarland and Clarisa McFarland, dated on November 12, 2013, and recorded among the land records of St. Mary's County in Book 3980, page 280, on November 12, 2013, conveying all right title and interest in Lot 5 as shown and described on the plat of subdivision, was made a part of the record.

IV. Findings of Fact: The Board adopts the Findings of Fact of the Hearing Examiner.

V. Conclusions of Law:

1. Appellant, as the owner of the lot adjacent to the subject property, has standing to maintain this appeal.

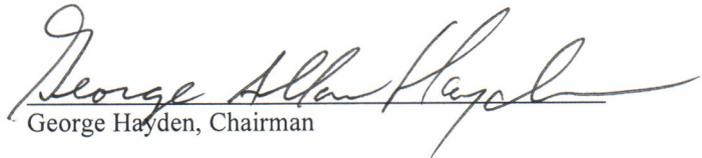
- 2. Sean McDermott and Ava McDermott do not have an interest affected by the outcome of this proceeding, and are not proper parties to this appeal. *Rice v. Mayor and City Council of Baltimore*, 203 Md. App. 15 (2011).
- 3. The Board adopts the Conclusions of Law of the Hearing Examiner.

DECISION AND ORDER

NOW, THEREFORE, BE IT ORDERED, that:

- 1. The Motion to dismiss the Appeal for lack of standing by Sean McDermott and Ava McDermott is **DENIED**.
- 2. The Motion to dismiss Sean McDermott and Ava McDermott as parties by the Appeal by Dennis L. DePriest is **GRANTED**.
- 3. The decision by the Planning Director to approve a boundary line adjustment plat re: Lot Numbered Five (5), Parcel A, Plat Numbered Eight (8), Landings At Piney Point is **REVERSED**.

This Date: April 10, 2014


 George Hayden, Chairman

Those voting to deny the Motion to Dismiss the Appeal:

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

Those voting to grant the Motion to Dismiss the Appeal:

Those voting to grant the Motion to Dismiss the Parties:

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

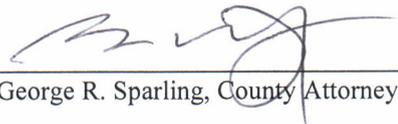
Those voting to deny the Motion to Dismiss the Parties:

Those voting to affirm the Planning Director:

Those voting to reverse the Planning Director:

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

Approved as to form and legal sufficiency:



 George R. Sparling, County Attorney