

The Dorchester County Board of Appeals met in regular session on Thursday, April 19, 2018 in Room 110 of the County Office Building at 7:00 PM. Present were, Catherine McCulley, Chairperson, Lin Spicer, Cindy Smith, Mike Starling, Walt Gunby, Attorney, and Steve Dodd, Director of Planning.  
Absent: Elizabeth Hill

An introduction was made by Chairperson McCulley, explaining the procedures of this meeting to the audience. She then asked Mr. Dodd to read the first case.

**Case # 2622 – Edwin M. Hood**

To request a Special Exception to permit the construction of a residential accessory structure which will exceed the footprint of the principal structure. Property is located at 7129 Hynson Road, Hurlock, MD 21643. Zoned AC – Agricultural Conservation. Acres - 2.11.

Edwin Hood, 7129 Hynson Road, Hurlock, MD 21643, and any other person who would be testifying in this case, were sworn in.

Mr. Dodd read the case and all pertinent information into the record.

Ms. McCulley advised the applicant of his two options, to rely on his written responses to the criteria or comment on the responses. Mr. Hood advised that he would rely on his written responses.

Ms. McCulley asked if there would be electricity or plumbing in the new structure. Mr. Hood advised that the accessory structure will have electricity but would not have plumbing. Mr. Spicer asked Mr. Hood if he planned to use the building to operate a business from. Mr. Hood stated that it will be used for storage only.

Ms. McCulley asked Mr. Hood if he would be agreeable to conditioning approval on the accessory structure not being used commercially or for living quarters. Mr. Hood was agreeable with these conditions.

Mr. Dodd read agency comments into the record. The Health Department had no objection to the special exception. The Planning Commission, based on the information provided, had no objection to the request. Mr. Dodd advised that because the Department of Public Works is without an engineer, the review was done by Tim Glass, Lane Engineering. Mr. Glass stated that based on the review he had no comments or issues pertaining to site, stormwater, or grading based on information provided. Building permit, site, sediment control and stormwater review will be required as normally warranted/required if the request is approved.

No one spoke in favor of this request and no one was opposed.

Ms. McCulley announced the end of testimony and the Board began their deliberations.

At this time, each Board member explained his decisions regarding the criteria.

After all testimony, Ms. McCulley called for a motion regarding this case. Mr. Spicer made a motion “to approve this request with the following stipulations: (1) no future commercial use (2) not to be used as a dwelling.” Seconded by Mr. Starling and unanimously carried.

**Case # 2623 – Marshyhope Operations, LLC  
Dorchester Lumber Co., Inc. – Owners  
Ryan D. Showalter - Applicant**

To request a Special Exception and to amend stipulations in Case No. 2570 to permit expansion of sand and gravel extraction operation onto adjacent lands to the east of current operations. Property is located north of North Tara Road, South of Federalsburg on three different parcels Map 7, Grid 10, Parcel 43, containing 26.887 acres, Map 7, Grid 16, Parcel 8 containing 15.579 acres, and Map 7 Grid 10, Parcel 57 containing 37.113 acres. Zoned AC – Agricultural Conservation.

Mr. Dodd read the case and all pertinent information into the record.

Ryan Showalter, McAllister, DeTar, Showalter & Walker, 100 N. West Street, Easton, MD, 21601, Steve Ward, 8502 Pierce Point Court, Potomac, MD, Operations Manager, Marshyhope Operations, LLC, Sean Callahan, Lane Engineering, 15 Washington, Street, Cambridge, MD and any other person who would be testifying in this case, were sworn in.

Ms. McCulley advised the applicant of his two options, to rely on his written responses to the criteria or comment on the responses. Mr. Showalter advised that they would comment on their written responses.

Mr. Showalter advised that this application seeks to expand the extraction operation onto property owned by Dorchester Lumber and eliminate the setback area required on the east side of the Holt property through Case No. 2570.

Mr. Showalter advised that the Planning Commission reviewed this request at their April meeting and recommended approval. He noted that at that meeting there was a discussion concerning transport of materials. He advised that all the materials are handled from the Caroline County side where there is better direct access to the State highway. There is a road agreement that was a condition of Case 2570 that obligated the applicant to make a contribution to Dorchester County for maintenance of North Tara Road and in the event that material is hauled from Dorchester County roads, the agreement includes plans for improvements at the intersection of North Tara and Johnson Roads. This agreement was approved by the County Council and recorded in Land Records. He noted that the monetary commitment has been made to the County; improvements to the intersection would be triggered only if used to haul the aggregate.

Mr. Callahan, Lane Engineering reviewed the site plan. Mr. Callahan advised that they are working with MDE Mining to obtain the necessary mining permits for the Dorchester Lumber Co. property. Mr. Callahan reviewed the Extraction, Reclamation & Sediment Erosion Control Plans.

Ms. McCulley asked Mr. Showalter to clarify the setbacks once the properties are combined. Mr. Showalter advised that the amendment portion of this request is to obtain approval to mine within the setback that was required by special exception case #2570 on the Holt property. He noted that when the properties are combined, the external property lines will adhere to the zoning code setbacks. He also advised that Marshyhope has not yet purchased the Dorchester Lumber property. Purchase is contingent on obtaining this special exception.

Mr. Showalter highlighted criteria from the Special Exception Narrative, to include truck traffic from this use, field deliveries, dust, noise and exterior lighting. Mr. Ward explained the operation of the dredge. He advised that there is no intention at this time to add another dredge, the main purpose now is to increase the operation from a 15 year to a 30 year operation. Mr. Ward also explained the reclamation and bonding process required by MDE.

Ms. McCulley asked if the applicant had acquired a letter from Maryland Heritage Division of DNR concerning impacts to any protected habitats as noted in the Staff Report. Mr. Callahan advised that they have submitted information to the State but have not heard back from them. Mr. Showalter noted that the site plan presented to the Planning Commission will depict the resolution agreed on.

Ms. McCulley also noted that the Staff Report recommends that Public Works review the existing road maintenance agreement and determine if it is adequate for the expanded area. Ms. McCulley suggested this might be a condition of approval and Mr. Showalter was agreeable.

Mr. Dodd read agency comments into the record. Mr. Dodd advised that Stephen Marsh of George, Miles & Buhr, agent for the Department of Public Works, had reviewed the request. He stated that as long as they own the properties and meet setback requirements he has no problem with the request. The Planning Commission, based on the information provided, had no objection to the request. They did point out that future expansion of this operation could lead to their requesting access to Rt. 313. This access is not presently sought but could raise many issues in the future. The Health Department had no objection to the requested amendment and special exception.

Ms. McCulley asked if there was anyone in the audience that would like to speak in favor of the request. James Mueller, 6770 Eldorado Rd., Federalsburg, MD 21632 came forward to ask several questions about the operation. He advised that his property is parcel 176, abutting parcel 43. Mr. Mueller asked if the proposed operation would use existing roads or will new roads need to be constructed. Mr. Ward stated that they would continue to access the site from the current operation side. There will be no new roads. Mr. Mueller asked if the dredging would create a noise factor in the evening. Mr. Ward advised that there is no lighting at the project so it is a daylight only operation. Mr. Callahan noted that the setback from Mr. Mueller's property line to the top of the excavation is approximately 1,200 ft.

No one from the audience spoke in opposition to the request.

Ms. McCulley announced the end of testimony and the Board began their deliberations.

At this time, each Board member explained his decisions regarding the criteria.

After all testimony, Ms. McCulley called for a motion regarding this case. Ms. Smith made a motion “to approve this request with the following stipulations: (1) Three (3) lots must be consolidated into a single parcel (2) Department of Public Works must review the road maintenance agreement and state in writing it is sufficient to serve the expanded area (3) Obtain site plan approval from Planning Commission and grading permit from Department of Public Works (4) No hauling of extracted materials via the haul road to Rt. 313.” Seconded by Mr. Starling and unanimously carried.

**Case # 2624 – Robbie J. Willey  
Steve Whitten - Applicant**

To request a Variance to allow new front porch on existing dwelling to be located within the required front yard setback. The property is located at 3951 Maple Dam Road, Cambridge, MD 21613, containing 4.5 acres, zoned RC - Resource Conservation.

Mr. Dodd read the case and all pertinent information into the record. Mr. Dodd pointed out that this house is pre-zoning due to its age, built in 1910.

Steve Whitten, Agent, Fink, Whitten & Associates, 504 Maryland Ave., Cambridge, MD, and any other person who would be testifying in this case, were sworn in.

Ms. McCulley advised the applicant of his two options, to rely on his written responses to the criteria or comment on the responses. Mr. Whitten advised that he would rely on his written responses and speak about several additional items.

Mr. Whitten passed out a picture of the house. He noted that the footprint of the house is approximately 600 sq. ft. He reviewed how the front property line is determined using the centerline of the roadway, referencing §155-51.E (5) of the Zoning Code. The porch the owner is requesting would be 10 ft. closer to the road than what now exists, 85 ft. from centerline is required and 52.6 ft. is being requested.

Mr. Whitten further explained that the owners began renovations to this house not knowing about the floodplain requirements and a stop work order was placed on the house. Mr. Whitten stated that he advised the owner that the house would need to be raised which the owner is in the process of doing now. Mr. Whitten stated that with the proposed additions, the house will still be in compliance with allowed surface coverage under the Critical Area laws.

Mr. Dodd read agency comments into the record. The Health Department had no objection to the variance. The agent for Public Works, Tim Glass, Lane Engineering stated that he has no issues pertaining to site, stormwater or grading based on the information provided. Building permit, site, sediment control and stormwater review will be required as normally warranted/required if approved by the Board of Appeals.

The Planning Commission, based on the information provided, had no objection to the request.

No one spoke in favor of this request and no one was opposed.

Ms. McCulley announced the end of testimony and the Board began their deliberations.

At this time, each Board member explained his decisions regarding the criteria.

After all testimony, Ms. McCulley called for a motion regarding this case. Ms. Smith made a motion “to approve the request”. Seconded by Mr. Spicer and unanimously carried.

**Case # 2625 – Elizabeth Hill -Owner  
Steve Whitten – Applicant**

To request a Special Exception to permit the construction of a residential accessory structure which will exceed the footprint of the primary structure. Property is located at 5317 Linkwood Road, Linkwood, MD 21835 containing 5.72 acres, zoned AC – Agricultural conservation.

Mr. Dodd read the case and all pertinent information into the record. Mr. Dodd noted that the owner does not reside on this property and the Planning Commission attorney, Christopher Drummond raised the question as to whether this would qualify as an accessory structure.

Steve Whitten, Agent, Fink, Whitten & Associates, 504 Maryland Ave., Cambridge, MD, and any other person who would be testifying in this case, were sworn in.

Ms. McCulley advised the applicant of his two options, to rely on his written responses to the criteria or comment on the responses. Mr. Whitten advised that he would rely on his written responses and add to them.

In response to Mr. Drummond’s comment, Mr. Whitten stated that he believes this building will meet the definition of an accessory structure as this is an improved residential lot with a dwelling, well and sewage reserve area, therefore it would be an accessory to the primary residence. He also pointed out the proposed location of the accessory structure noting that it will not be on the main road and will be in character with the surrounding area as seen on the GIS maps.

Ms. Hill passed out pictures she had taken of the surrounding area that include many accessory structures that are similar to the one she would like to construct. Ms. Hill also noted that she has spoken with the adjoining property owners and they have no problem with the structure. She also stated that the property has a mobile home on it that is rented out. She advised that there would be electricity to the accessory structure but no plumbing.

Mr. Dodd read agency comments into the record. The Health Department had no objection to the special exception. The agent for Public Works, Tim Glass, Lane Engineering stated that he has no issues pertaining to site, stormwater or grading based on the information provided. Building permit, site, sediment control and stormwater review will be required as normally warranted/required if approved by the Board of Appeals. The Planning Commission, based on the information provided, does not believe this is an accessory to the use of the property and will become the principle use of the property, i.e. storage.

There was a lengthy discussion as to how the Planning Commission arrived at their opinion. Mr. Dodd advised that the Planning Commission is not given all the information the Board of Appeals hears, noting the Planning Commission was unaware that the mobile home was rented. Mr. Dodd stated that he sees no problem with the Board of Appeals approving a case such as this in the future as long as there is an existing dwelling on the property. It would not matter if the dwelling was occupied by the person requesting the permit or a third party unrelated to the permit request. He did note that it becomes questionable if the house is dilapidated or vacant.

No one spoke in favor of this request and no one was opposed.

Ms. McCulley announced the end of testimony and the Board began their deliberations.

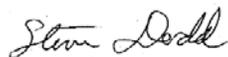
At this time, each Board member explained his decisions regarding the criteria.

After all testimony, Ms. McCulley called for a motion regarding this case. Mr. Starling made a motion "to approve this request with the following stipulations: (1) no commercial use (2) no dwelling use". Seconded by Mr. Spicer and unanimously carried.

A motion was made by Ms. Smith to approve the minutes of February 22, 2018. Seconded by Mr. Spicer and unanimously carried.

With no further business, a motion was made by Mr. Starling to adjourn. Seconded by Mr. Spicer and unanimously carried. Time of adjournment: 9:30 PM.

Respectfully submitted,



Steve Dodd  
Executive Secretary