

The Dorchester County Board of Appeals met in regular session on Thursday, April 25, 2019, in Room 110 of the County Office Building at 7:00 PM. Present were, Lin Spicer, Chair, Elizabeth Hill, Vice Chair, Cindy Smith, Pam Allen, Charles Dayton, Jr., Walt Gunby, Attorney and Brian Soper, Planner.

An introduction was made by Chairperson Spicer, explaining the procedures of this meeting to the audience. He then asked Mr. Soper to read the first case.

**Case #2643 – Brian and Brandi Knill (owners)  
Steve Whitten (applicant)**

**To request a variance to allow an accessory building within the required 60' from center of road front yard setback. Variance requested is 14' or 46' from center of road. Property located at 1750 Hoopersville Road, Fishing Creek, MD 21634, containing 1.0 acre. Zoned V – Village District.**

Steve Whitten, applicant, Fink, Whitten & Associates, 504 Maryland Ave., Cambridge, MD, Brian Knill, 1750 Hoopersville Rd., Fishing Creek, MD and any other person who would be testifying in this case, were sworn in.

Mr. Whitten advised he would like to amend the request and referenced §155-51 E (5) of the Code. He is requesting an increase of 1 ft., amending the request to 15 ft. or 45 ft. from the center of the road, to assure the distance from the proposed accessory structure to the corner of the house is maintained.

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

Mr. Spicer 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.

Mr. Whitten reviewed the request noting the proposed area for the accessory structure would cause the least disturbance to the property. He passed out an aerial exhibit of the property and explained the different markings.

Ms. Smith asked what the building would be used for. Mr. Knill advised it will be used for storage of a boat and some woodworking tools. He stated the building will not be used commercially.

Mr. Soper read agency comments into the record. The Department of Public Works, represented by Lane Engineering, commented that if the Board of Appeals approves this application, and the area of disturbance is over 5,000 sq. ft., the applicant must address stormwater management per County code. The Planning Commission stated that based on the information provided, they suggest the Board make sure the building is placed in conjunction with the setbacks as requested. There was no response from the Health Department.

Mr. Knill had questions about the 5,000 sq. ft. disturbance. Mr. Whitten explained how the area of disturbance is calculated and advised the disturbance will not be over 5,000 sq. ft. Mr. Soper also advised that the proposed structure is under 900 sq.

ft. and will not be required to be elevated, but will require flood vents and a gravel base. Mr. Knill asked if he could put a concrete floor inside the building. Mr. Soper stated the gravel base is for the basic foundation, a concrete floor would be allowed.

No one spoke in favor of this request and no one spoke in opposition.

Mr. Spicer 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, Mr. Spicer called for a motion regarding this case. Ms. Hill made a motion “to approve the amended request with the following stipulations: must comply with stormwater management regulations.” Seconded by Ms. Smith and unanimously carried.

**Case #2644 – George M. Neall, II, Trustee (owner)  
Steve Whitten (applicant)**

**To request a variance to allow a primary dwelling and associated appurtenant attachments within the required 100’ intermittent stream buffer. Variance requested is 45’ (or buffer reduced to 55’). Property located on Tates Bank Road, Cambridge, MD, 21613, Map 31, Parcel 111, Lot 1, containing 1.448 acres. Zoned SR - Suburban Residential.**

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

Mr. Soper read the case and all pertinent information into the record. Mr. Soper noted the platted building restriction lines are more restrictive than the current zoning requirements, the applicant cannot request a variance for this; the stream variance request is the only variance allowed.

Mr. Whitten noted he is the applicant and agent for this case. He reviewed the site plan noting the portion of property the dwelling is proposed to be constructed on. He stated that in 2010, critical area law changed to enforce a 100 ft. buffer from any intermittent stream, requiring a variance for this property.

Ms. Smith asked how mitigation would be handled. Mr. Soper advised that a permit will not be issued until a buffer management plan or fee in lieu is approved. Mr. Whitten stated there are few areas to mitigate on the property due to limited open space. He pointed out on the site plan the area that can be used for planting, but noted most of the required mitigation will be fee in lieu.

Mr. Spicer asked Mr. Soper to explain the unwarranted hardship. Mr. Soper advised that without granting a variance, the applicant would be denied reasonable and significant use of the property. In this case, without granting the variance, a structure could not be built that would comply with the County Zoning Ordinance.

Mr. Soper read agency comments into the record. The Department of Public Works, represented by Lane Engineering, commented that if the Board of Appeals approves this application, and the area of disturbance is over 5,000 sf, the applicant must address stormwater management per County code. The Planning Commission stated that based on the information provided, they suggest the Board assure everything proposed will fit within the requested setbacks. There was no response from the Health Department.

Mr. Whitten reviewed the site plan dated February 21, 2019. Mr. Soper noted that the County did not adopt Critical Area law until 1988. When this subdivision plat was drawn in 1986, a critical area line was placed on the plat; this line was not adopted by the County when it adopted the Critical Area law.

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

Mr. Spicer 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, Mr. Spicer called for a motion regarding this case. Ms. Allen made a motion "to approve this request with the following stipulations: (1) mitigation required at a ratio of 3 to 1, (2) no more variances allowed related to the stream, (3) all permits must be obtained before construction begins." Seconded by Mr. Dayton and unanimously carried.

A motion was made by Ms. Smith to approve the minutes of the March 21, 2019 meeting. Seconded by Ms. Hill and unanimously carried.

With no further business, a motion was made by Ms. Hill to adjourn. Seconded by Ms. Smith and unanimously carried. Time of adjournment: 8:15 PM.

Respectfully submitted,

Brian Soper  
Executive Secretary