

**DORCHESTER COUNTY**  
**DEPARTMENT OF PLANNING & ZONING**  
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**Planning & Zoning Commission**  
**11-04-2020 Meeting Minutes**

The Dorchester County Board Planning and Zoning Commission conducted a meeting on Wednesday November 4, 2020 at 12pm in County Office Building Room 110, at 501 Court Lane, Cambridge MD 21613.

**Planning and Zoning Commission:**

- **Attending in person:**  
Robert Hanson, Chair; Jerry Burroughs, Vice-Chair; Commissioners Ralph Lewis, William Windsor, Laura Layton and Mary Losty (absent: Commissioner William Giese)

**Also attending (in person):**

Herve Hamon, Director of Planning & Zoning; Susan Webb, Assistant Director of Planning & Zoning; Christopher Drummond, Attorney; Brandon Vermillion, GIS Specialist

- 1- Chairman Hanson called the meeting to order at 12pm, and proceeded with a modification of the agenda; Hubbard Solar to be heard last, Simmons Auto body to be heard first, all remaining cases to stay in proposed order; all approved

**2- New Business:**

- **Simmons Residence – 5286 Bucktown Road, Cambridge – Special Exception – BOA case #2667**
  - Application for continuance and expansion of a legal non-conforming use.
    - Mr. Hamon presented the case, highlighting that the use of the parcel for auto body and car repair predated the change of zoning of 1996; he also explained that the location of the property (across the airport, near 3 County owned properties that cannot be developed as they are part of an aviation easement, and North of a large industrially zoned city parcel) is consistent with an Industrial use, which is what this was zoned prior to the 1996 Comprehensive Plan rezoning
    - Mr. Simmons is applying for a building permit to erect a 30x60 pole building, which will be used to conduct his business indoors; the business would not be permitted as a use under the current zoning of the property (SR- Suburban Residential) but was as-of-right under Industrial zoning prior to 1996
    - Attorney Chris Drummond confirmed that there has always been continuous use with auto body on this parcel; he asked that a clause be drafted to guarantee construction of the building be underway by January 2021

Based on the evidence and documents presented, the P&Z Commission made a **favorable recommendation** to the Board of Appeals for this application. Next BOA meeting is scheduled for November 5, 2020.

- **Gerstell Plantation, LLC. - Church Creek & Brannocks Neck Road, Cambridge (RC – RCA zoning)**
  - This was an application to approve the subdivision sketch map, the waiver request and the shared driveway
    - Attorney Chris Drummond explained that the owner should fill out a maintenance agreement satisfactory to the County
    - Department of Public Works (DPW) reviewed and agreed with this waiver request.

**Chairman Hanson asked for:**

- A motion to approve the waiver request for the shared driveway between lots 1 and 2
- A motion to approve the waiver request for a shared driveway between lots 3, 4, 5 and 6 (Granted all parties sign a satisfactory maintenance agreement)

Vice Chair Burroughs made that motion, it was seconded by Commissioner Losty; all approved

Chairman Hanson asked for:

- A motion to approve the preliminary sketch plan of the subdivision until final design

Commissioner Losty made that motion, it was seconded by Commissioner Layton; all approved.

- **Booze Residence – 1757 Town Point Road, Cambridge, MD – Special Exception – BOA Case #2668**
  - This was an application to build an accessory structure prior to the construction of a primary structure  
Background / Staff Report:
    - Property is located in the RR-C Rural residential Conservation District, is not in Critical Area and not in a Flood Plain
    - Applicant proposes to construct a 1,600 square foot accessory structure; according to Zoning Ordinance Chapter 155.50.A.1.d.1.b the maximum for accessory structure on a lot in the RR-C district is either equal to the building footprint of the primary structure or 1,600 sf, whichever is greater
    - According to Zoning Ordinance Chapter 155.50.A.1.d.2.c, the Board of Appeal can grant construction of an accessory structure prior to the construction of a primary structure under a Special Exception
    - Applicant plans on constructing a single family dwelling, for primary residence, at a later time
    - The accessory structure will be used for storage of tools and indoor work.

Attorney Chris Drummond suggested that the Board of Appeal issue a condition: requesting that construction of the primary structure start within 2 years of the completion of the accessory structure.

Based on the evidence and documents presented, the P&Z Commission made a **favorable recommendation** to the Board of Appeals for this application. Next BOA meeting is scheduled for November 19, 2020.

- ❖ **Rieck Residence – 3708 Willey Road, Hurlock – Variance – BOA Case # 2669**
  - This was an application for a variance to permit construction of a new pier within the lateral setback lines
  - Background / Staff Report:
    - Proposed pier will extend 250' into the Choptank River, due to the shallowness of the river. Construction of the pier consists of mooring, pilings and two boat lifts. As proposed, the pier is not located within the prescribed 25' setbacks but three pilings are situated within the setback to the south and five pilings are situated within the northern setback. The proposed boat lifts are attached to the pilings and pier and extend into the northern setback.
    - Construction of the pier will in no way hinder the parcels to the north and south from installing piers for riparian access. In addition, the property and immediately adjacent parcels are highly elevated.
    - Impacts to the view shed from the property and surrounding parcels will be minimal because the pier will be installed at approximately four to five feet above mean low water, meaning the pier will be well below the houses situated in the area and will not block views of the Choptank River.

Based on the evidence and documents presented, the P&Z Commission made a **favorable recommendation** to the Board of Appeals for this application. Next BOA meeting is scheduled for November 19, 2020.

- ❖ **Rigney Residence – 6920 Reliance Road, Cambridge – Special Exception – BOA case #2670**
  - This was an application to approve the use of the accessory building for sale of firearms instead of the sales being confined to the home as a home occupation.
  - Background / Staff report:
    - The size of the subject accessory structure is a total of 1,680 square feet. The total square footage of the primary residence is 2,054 square feet.
    - The home based occupation has been operated out of the primary residence for approximately 20 years.
    - The proposed use is consistent with the Dorchester County Comprehensive Plan to promote revenue and continue a long standing service.
    - Previous owner had a special exception first granted for home occupation (gun shop inside home).
    - Mr. Rigney purchased the property and gunshop had already been transferred to accessory structure. Current owner wants to continue out of the accessory structure (ATF will not issue license if special exception is not granted).
    - Under Dorchester County Zoning Ordinance Chapter 155.Q.2.b.2, a home occupation can be located in an accessory structure by Special Exception and Board of Appela approval that it is harmonious in scale, character and appearance with the primary residence

Based on the evidence and documents presented, the P&Z Commission made a **favorable recommendation** to the Board of Appeals for this application. Next BOA meeting is scheduled for November 19, 2020

- **Harding Residence** – 4925 Skeet Club Road, Hurlock – Special Exception – **BOA case #2671**
  - Application to approve extra square footage being added to accessory building. (575 square feet in excess of allowable)
  - Background / Staff report:
    - The accessory structure will be used to store commercial fishing equipment.
    - The structure will be on wooded area of lot and will not be visible from the road or any neighboring properties.

Based on the evidence and documents presented, the P&Z Commission made a **favorable recommendation** to the Board of Appeals for this application. Next BOA meeting is scheduled for November 19, 2020.

- **Hurlock Residence** – 5533 LeCompte Road, Cambridge – Special Exception – **BOA case #2672**
  - Request of a Special Exception to allow the sum / total area of accessory structures to be greater than the building footprint of the principal residential structure. Total requested 4,850 sq ft. (AC zoning district)
  - Background / Staff report:
    - This case was previously heard before the P & Z & BOA and approved on 8/21/2018 for a 1,200 square foot accessory structure. The structure was not constructed within the two year time period and therefore the special exception approval expired.
    - There is an existing 2,200 sq ft accessory structure, which was approved by a variance in 2000. The principal residence is a total of 1,808 sq ft.
    - The applicant proposes a 30x50 pole building and a 15x45 lean to, the accessory structures will be screened from the public road by a tree row.
    - The proposed accessory structures are built on a lot without primary structure, hence a special exception under Zoning Ordinance Chapter 155.50.A.1.d.2.c; in addition, should the 2 lots be merged under a covenant, a Variance on the amount of accessory structure square footage (total proposed 4,850sf, with already a 2,410sf existing building) is required, as the primary structure footprint is only 1,808sf and the Zoning Regulations (Chapter 155.50.A.1.d.b for size of accessory structures in AC district) only allow up to the size of the footprint of the house (1,808sf).

Based on the evidence and documents presented, the P&Z Commission **deferred decision** to the Board of Appeals for this application, pursuant to clarification of language and conditions. Next BOA meeting is scheduled for November 19, 2020

- **Hubbard Solar - Site Plan Approval** - West Side of Osbourne Road, East Side of Maryland Route 392, North Side of Route 14, East New Market, Cambridge
  - A request was made for a special exception which would allow to **install a solar energy system, utility scale** on two (2) locations of about 25 acres each within a 74 acre parcel. The remaining 23 acres will remain agricultural use.
  - The request also included a **variance to the maximum fence height of 6 feet** to allow for a 7 foot high fence surrounding the 2 project sites.
  - The property is located in an AC, Agricultural Conservation Zoning, and the request requires a Board of Appeal approval. Applicable Sections of the Code are: 155-50.LL and Use Table 155-1
- On October 22, 2020, the Board of Appeal approved the special exception application subject to the following conditions:
  - That the dirt lane would never be blocked to traffic (except occasionally during project construction)
  - That the vegetation buffer be maintained by Convergent for a period not less than 3 years
  - That the evergreen trees to be planted would be a minimum of 6 foot tall
  - The variance for a fence height of 7 feet was approved
- The Board of Appeal then referred the case to the Planning and Zoning Commission for Site Plan review
- **Planning & Zoning Commission Site Plan review:**
- Upon presentation of the project specifics by Nick Leffner and Rebecca Koze, representing Hubbard Solar LLC., the following conditions were discussed and included in the design requirements of the site plan:
  - 1- The 50 foot minimum vegetation buffer shall be irrigated with a pipe system on the entire perimeter (applicant is being given the option of using watering trucks every other week at a minimum, or cisterns, or digging a well)
  - 2- The maintenance of the vegetation buffer shall take place and be guaranteed for 4 years to insure survival and establishment of the trees & shrubs planted
  - 3- Organize the planting of the vegetation buffer per review and approval by the Director of Planning

(regarding location of shrubs and trees in relation to public view): "formal" with lined up shrubs first along the right of ways and viewed areas, "organic" and blended with random planted larger trees first on the back perimeter of project, rural in character

- 4- Consult with Attorney Chris Drummond for fence design; wire mesh deemed insufficient for blending and providing proper visual screening (the use of slats was mentioned); final approval by Planning Director
- 5- Create a Decommissioning Bond for the end of life of the solar field, with a 30 year out price projection for the disposal of **all** equipment; the amount of Bond to be revisited every 5 years

Chairman Hanson asked for a motion to approve the 5 conditions above to establish the site plan requirements, noting that all Board of Appeals requests from October 22, 2020 shall be included as well.

Vice Chair Burroughs made that motion, it was seconded by Commissioner Windsor: all approved.

Chairman Hanson asked for a motion to adjourn the meeting. Vice Chair Burroughs made a motion, it was seconded by Commissioner Layton. all approved. The meeting adjourned at 3:30pm.

Respectfully submitted:

Herve O. Hamon, AICP, RA, LEED AP  
Director of Planning and Zoning

Reviewed:  Chairman R. Hanson

Date: 1/20/21