

# DORCHESTER COUNTY BOARD OF APPEALS

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## November 19, 2020 – BOA Meeting Minutes

The Dorchester County Board of Zoning Appeals conducted a meeting on Thursday November 19, 2020 at 6pm in County Office Building Room 110, at 501 Court Lane, Cambridge MD 21613.

All attendees wore facial coverings and respected the 6 foot distancing regulations.

Present: Chairman Lin Spicer, Elizabeth Hill, Vice Chair; Pam Allen, Commissioner  
Absent: Commissioner Cindy Smith and Charles Dayton

Also in attendance: Walter Gunby, Esq., County Legal Counsel; Herve Hamon, Director of Planning; Susan Webb, Assistant Director of Planning; Brandon Vermillion, GIS Specialist.

Applicants were represented by:

BOA Case #2668, Booze Residence, Special Exception. Robert Booze, owner  
BOA Case #2669, Rieck Residence, Variance. Brendan Mullaney, Attorney  
BOA case #2670, Rigney Residence, Special Exception. Mr. Rigney, owner  
BOA case #2671, Harding Residence, Special Exception. Tanya Harding, owner  
BOA case #2672, Hurlock Residence, Special Exception. Steve Whiten, Surveyor

Chairman Spicer called the meeting to order at 6pm. He conducted a roll call and welcomed the attendants. Brandon Vermillion swore in the applicants' representatives at the time of each of their testimony.

- 1- BOA case #2668, Booze Residence, Special Exception.** 1757 Town Point Rd, Cambridge, MD  
Application for construction of an accessory structure prior to the primary structure being constructed.

Background:

On November 4, 2020, the Planning & Zoning Commission met and decided on a favorable recommendation.

- The property is located in the RR-C (Rural-Residential Conservation District); the property is not in the critical area or flood plain.
- The applicant proposes to construct a 1,600 square foot accessory structure
- The applicant plans on using the accessory structure for storage only
- The applicant plans to build a primary structure within two (2) years of the granting of the exception

The case was presented by Ms. Susan Webb, Assistant Director of Planning and Zoning; she recommended considering this application favorably.

There was no opposition, nor any comments from the public.

The Board members each read the qualifying criteria findings and evaluated the application, confirming that each criteria for granting the requested special exception was satisfied.

Decision:

Commissioner Allen made a motion to approve the application as submitted; Vice Chair Hill seconded, with the condition that the construction of a primary structure would be started within 2 years; all approved. The Special Exception to build an accessory structure of 1,600ft prior to the main building was approved.

- 2- BOA case #2669, Rieck Residence, Variance.** 3708 Willey Road, Cambridge, MD  
Application to approve construction of a new pier.

Background:

On November 4, 2020, the Planning & Zoning Commission met and decided on a favorable recommendation.

- The property is located in the RR zone (Rural-Residential district); the property is in the LDA Critical Area, and in the AE Zone Flood Plain.
- 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 the views of the Choptank River.

The case was presented by Ms. Susan Webb, Assistant Director of Planning and Zoning; she recommended considering this application favorably.

There were 2 testimonies in opposition of the application:

- 1- Kevin Donohue (neighbor adjacent to the South, 3706 Willey Road):
  - a. Was rejected by the County for a pier in 2007, and wondering why and how this application should be approved
  - b. Expressed that the proposed pier would not be in character with the neighborhood, which has none, as the houses were built close together
  - c. Disapproves of this proposal
- 2- Catherine McCulley (neighbor adjacent to the North, 3710 Willey Road)
  - a. Expressed that the 25 foot setbacks are the least that should be done, and should be respected
  - b. Explained that the view towards the water would be ruined
  - c. Asked that the pier not be approved

Mr. Mullaney responded that:

- Mr. Donohue should re-apply for a pier today and most likely be granted approval
- Mr. Rieck, his client would provide a mutual signed agreement with the adjacent neighbors to allow use of his 25 foot setback if boat maneuvering was an issue
- Denying the construction of the pier would constitute depriving his clients of his rights to enjoy his property, common to other owners in this neighborhood

Mr. Hamon asked Mr. Vermillion to illustrate on the computer screen the existence of other close together piers in the neighborhood, and expressed that the main hardship triggering this variance was the geometry of the shoreline (no matter how temporary) which creates the lateral lines and location of setbacks on the riparian rights

The Board members went into a closed session to receive legal counsel from Attorney Walter Gunby.

Upon re-convening into public session, they each read the qualifying criteria findings and evaluated the application, confirming that each criteria for granting the requested special exception was satisfied.

Decision:

Vice Chair Hill made a motion to approve the application as submitted; Commissioner Allen seconded; all approved. The Variance to permit construction of a new pier located approximately 11' within the lateral line setbacks to the north and south was approved.

**3- BOA case #2670, Rigney Residence, Special Exception. 6920 Reliance Rd, Federalsburg, MD.**

Application to approve the use of the accessory building for sale of firearms instead of the sales being confined to the home.

Background:

On November 4, 2020, the Planning & Zoning Commission met and decided on a favorable recommendation.

- The property of 64.34 acres is located in the AC (Agricultural Conservation District); this property is not in the Critical Area or the Flood Plain.
- The previous homeowner has been operating a gun service home occupation out of the home under a Special Exception, and subsequently out of the accessory structure.
- The size of the subject accessory structure is a total of 1,680 square feet (28'x60'). The total square footage of the primary residence is 2,054 square feet (no variance there).
- The home based occupation has been operated out of the primary residence and accessory structure for approximately 20 years in total.

- The proposed use is consistent with the Dorchester County Comprehensive Plan to promote revenue and continue a long standing service to the community.
- Previous owner had a special exception first granted for home occupation (gun shop inside home) and move the gun service to the accessory structure prior to Mr. Rigney's purchase. When Mr. Rigney purchased the property, the gunshop had already been transferred to accessory structure.
- Current owner wants to continue this home occupation out of the accessory structure (ATF will not issue license if special exception is not granted). Mr Rigney is a licensed Firearms Instructor, and has provided safety classes at this site for the last 7 years

The case was presented by Herve Hamon, Director of Planning and Zoning; he recommended considering this application favorably.

- Commissioner Allen asked about shooting on the premises; Mr Rigney responded that it took place outside the building, away from the public, and strictly as a recreational use for sighting the rifles and handguns

There was no opposition, nor any comments from the public.

The Board members each read the qualifying criteria findings and evaluated the application, confirming that each criteria for granting the requested special exception was satisfied.

Decision:

Vice Chair Hill made a motion to approve the application as submitted; Commissioner Allen seconded; all approved. The Special Exception to allow the use of an accessory structure for sale of firearms under the context of home occupation instead of the sales being confined to the home was granted.

**4- BOA case #2671, Harding Residence, Special Exception.** 4925 Skeet Club Rd, Hurlock, MD

Application to approve additional square footage to an accessory building in excess of maximum allowed.

Background:

On November 4, 2020, the Planning & Zoning Commission met and decided on a favorable recommendation.

- The property is located in the AC (Agricultural Conservation District); this property is not in the Critical Area or the Flood Plain.
- The accessory structures will be used to store commercial fishing equipment; one for the fishing boat, the other for other fishing equipment.
- The structure will be on wooded area of lot and will not visible from the road or any neighboring properties.
- Additional square footage to be added to accessory building.
- Main structure = 1,800 sq ft; application for a new 40' x 50' building with a 15' x 25' lean-to structure
- 2,375 sq ft total accessory proposed; maximum permitted is 1,800sf (= 575 square feet in excess of allowable).

Mr. Hamon raised the issue to the board about considering waterman livelihood structures as agricultural buildings (farming the waters of the bay) and therefore in the future using similar exemptions for Ag buildings defined in the code

The case was presented by Ms. Susan Webb, Assistant Director of Planning and Zoning; she recommended considering this application favorably.

There was no opposition, nor any comments from the public.

The Board members each read the qualifying criteria findings and evaluated the application, confirming that each criteria for granting the requested special exception was satisfied.

Decision:

Commissioner Allen made a motion to approve the application as submitted; Vice Chair Hill seconded; all approved. The Special Exception to allow 575 additional square feet to the maximum allowed of 1,800sf for all accessory structures was granted.

**5- BOA case #2672, Hurlock Residence, Special Exception.** 5533 Lecompte Rd, Rhodesdale, MD

Application to authorize a special exception to allow a sum total area of accessory structures greater than the building footprint of the principal residential structure.

Background:

On November 4, 2020, the Planning & Zoning Commission met and decided on a favorable recommendation.

- The subject property has received 2 Board of Appeals approvals in the past:
  - BOA #1966, May 26, 2000 for a Variance to allow an accessory structure to be larger than the principal structure (with the condition that there shall be no business solicitation on the site)
  - BOA #2633, September 24, 2018 for a Special Exception to construct a 1,200sf accessory structure (in addition to existing 2,200sf accessory structure previously approved in 2000); it was approved with

conditions: proposed building cannot be used for business – must execute a covenant not to separate lots before building permit is issued

- BOA #2633 expired in September 2020, and was not extended since work had not started.
- The property is located in the AC (Agricultural Conservation District); this property is not in the Critical Area or the Flood Plain.
- Total amount of accessory structures requested is **4,850 square feet**, as follows:
  - Existing 2,410sf building + 236sf shed
  - AND Proposed 1,500sf building + 704sf lean-to (for a total of 4,850sf)

Basis for Staff recommendation:

- 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 approval expired.
- There is an existing 2,200 sq ft accessory structure (really 2,410sf + a shed of 236sf), which was approved by variance in 2000. The principal residence is a total of 1,808 sq ft.
- The proposed accessory structures (1500sf for antique cars and 704sf lean to for yard equipment) will not be used for business and will be screened from the public road by a row of trees.
- There is a covenant in place not to separate the lots, which makes this double lot one single lot for zoning calculation purposes
- By building additional accessory structures on the lot that already features such, the main residence lot is less encumbered with impervious coverage and contributes to the general agricultural conservation attitude

Mr. Whitten testified:

- There is a Special Exception in place allowing Mr. Hurlock, property owner, to operate his snapp-on truck business out of the premises, and allow him to keep safely all the tools and parts relating to his business
- The buildings proposed are strictly for residential accessory use, storage of antique cars and lawn equipment
- Because of the proposed layout, there will be no new gravel surface created

The case was presented by Herve Hamon, Director of Planning and Zoning; he recommended considering this application favorably.

There was no opposition, nor any comments from the public.

The Board members each read the qualifying criteria findings and evaluated the application, confirming that each criteria for granting the requested special exception was satisfied.

Decision:

Commissioner Allen made a motion to approve the application as submitted; Vice Chair Hill seconded; all approved.

**6- Discussion:**

The Board of Appeal meetings will resume their usual start time of 7pm as of December 17, 2020.

Chairman Spicer asked for a motion to adjourn the meeting.

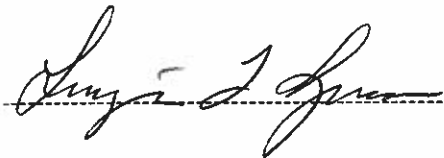
Commissioner Allen made a motion to adjourn the meeting; it was seconded by Vice Chair Hill; all approved.

The meeting adjourned at 8:30pm.

Respectfully submitted.

*Herve O. Hamon*

Herve O. Hamon, AICP, Director of Planning & Zoning



----- Approved by the Chair

*10/3/20*

----- Date