

DORCHESTER COUNTY BOARD OF APPEALS

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November 5, 2020 – BOA Meeting Minutes

The Dorchester County Board of Zoning Appeals conducted a meeting on Thursday November 5, 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 and Charles Dayton Jr, Commissioners
Absent: Commissioner Cindy Smith

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 #2667, Simmons Residence and Auto Body – Special Exception – Drew Simmons, owner
BOA Case #2665, AquaCon LLC. – Special Exception – Ryan Showalter, attorney; J. Brown Engineer

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 #2667 – Simmons Residence and Auto Body** – Property address: 5286 Bucktown Road, Cambridge – **Special Exception**
 - Application for continuance and expansion of a legal non-conforming use (car service and repair).
- **Background:**
 - On November 4, 2020, the Planning & Zoning Commission met and decided on a favorable recommendation.
 - 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 the parcel 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
 - During the Planning & Zoning Commission meeting, 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

Staff 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.

o **Decision:**

Vice Chair Hill made a motion to approve the application as submitted; Commissioner Dayton seconded, all approved. The Special Exception to continue the auto body activity on the parcel, and expand the business with a new pole building was granted.

1- **BOA Case #2665 AquaCon LLC. Special Exception.** Property address: 5650 Country Club Road, Cambridge

- Request to allow special exception approval for aquaculture use, hatchery and utility structures in the RR-RRCA Rural Residential Conservation Area zone

o **Background:**

- o Applicant proposes to build a 1.2 million square feet building on the 133.78 acre former site of the Cambridge Country Club
- o The proposed building will house an Atlantic salmon aquaculture facility, with tanks, in a climate controlled environment with strict biosecurity protections
- o Salmon will be distributed head on, gutted, and packed on ice, but will not be processed, smoked or packaged on site
- o The proposed operation will use state-of-the-art recirculating filtration systems and aquaculture methods to minimize impacts to the land and water around the facility
- o The facility will be staffed by about 120 employees during peak shift; 30 to 35 trucks are anticipated per week
- o A stormwater plan is in place, collecting roof and parking areas accumulation into a "rainwater harvesting" system, retrofitting the golf club irrigation system and watering the vegetation maintained on the remaining portion of the site
- o The electric load will be offset by the installation of solar array panels on the roof
- o Solid waste water produced by the salmon will be collected and processed by anaerobic digesters on site to produce bio-gas that will fuel generators (all in compliance with MDE standards)

Ryan Showalter, representative for AquaCon LLC. presented in detail the functioning of the proposed facility.

Questions and points of clarification from the Board:

- 4 similar facility sites are being considered simultaneously by AquaCon: in Denton, Federalsburg, within Cambridge city limits and at the Golf Club (the site being evaluated for special exception)
- The facility essentially recirculates 99.9% of the water required; only in the "purging tanks" is there a need to draw 2.3 million gallon of fresh water from the Choptank River; after being used in the final stage tanks to eliminate the Geosman flavor from the fish flesh, the water is purified and returned to the river on a continuous loop
- It is anticipated that 70 to 80,000 gallons per day of domestic waste water will be connected to Cambridge Water & Sewer Treatment Plant; a dedicated pipe will be built, next to the existing pipe connecting then Horn Point facility
- Mr. Hamon clarified that then solar array panels on the n roof , and the onsite geneartion did not require a separate special exeption, as they were accessory to then main use of aquaculture
- Mr. Showalter expalined that his clients had come to an agreement with all requests from the Critical Area Commission (regarding impacts on the RCA zone closest to the Choptank River)
- Mr. Hamon asked what was the anticipated duration of the construction of then facility; the answer was 2 years, with the hatchery being used as soon as operational prior to the completion of the entire structure (mature fish for production are 2 year old salmon); this question highlighted the impact of the construction period on the neighborhood and immediate community + road access
- Commisioner Allen expressed concerns about the additional traffic genearted by the facility, both for the quantity of trucks (5 or 6 per day), and for the impact on the already busy intersection of Washington and Race Street
- Mr. Showalter confirmed that all costs associated with sewer connection and road upgrade would be covered by AquaCon LLC.

Testimonies / questions from the public:

- Mike Detmer, Dorchester Star:
 - Is there a chance a berm could be built to enhance the height of the vegetation buffer – No
 - If the building is ever abandoned, what is the provision to deal with the solar energy system ?
 - What is the anticipated use of the well(s) – 20 to 25,000 gallons per day (less than the golf course irrigation and watering)
- Tom Fisher, Horn Point Laboratory
 - What kind of water is needed for the fish – brackish is good, hence the Choptank
 - When the water is returned to the Choptank, what is IN the water? – particles will be in accord with MDE standards at the discharge point
 - Concerns about what impact the water discharge will have on the oyster hatchery and water quality of the Choptank (need hard numbers for quantity of Nitrogen and Phosphorus)
- Phil Valiant
 - What are the measures taken in case of extreme event (tornado, hurricane, power outage...); is the facility designed to prevent salmon to escape into the river, or pathogens to contaminate the water?
- Matt Pluta, Shore Rivers:
 - Confirmed that no antibiotics will be used during the life cycle of the salmon
 - Confirmed that UV light would be used to eliminate all pathogens in the water being recycled back to the Choptank River
 - Asked what would happen if there was a massive die-off of fish in multiple tanks
 - Asked how the water temperature from the Choptank (sometimes up to 90 degrees in summer) would be brought down to acceptable level (salmon require less than 60 degree water temp.)
 - Stressed that the Clean Water Act would be strictly applied to the facility's discharge point
 - Expressed that in his opinion, the issue of magnitude and scale in that specific location was a problem (rural setting, when this is an industrial facility); he asked if there would not be a better suited industrial location somewhere else around Cambridge
 - Concluded in explaining that this 1.2 million square feet building would be the biggest in all of Delmarva, with only the 1 million sf Amazon warehouse of Middletown coming close
- Doug Schuetz
 - Expressed that he had serious concerns about the traffic generated on Washington Street and at the intersection with Race Street
 - Suggested that the facility be placed on one of the brownfields of Cambridge, near Route 50 to alleviate traffic issues and better integrate the industrial character
 - Asked why AquaCon would not consider a double facility of 50 acres
- Dave Fergusson:
 - Expressed his concerns about the connection and available capacity of the Cambridge Water & Sewer Treatment Plant
 - Presented his opposition to the construction of this building, which would “destroy the beauty of the landscape instead of preserving the land”
 - Could not see the practicality of the location of river water pumping (at the end of the exiting pier)
- David Rineholt (adjacent neighbor):
 - Asked why there was no Environmental Impact Study performed ahead of this meeting
 - Stressed the point of traffic onto Horn Point road: with 120 employees each morning and evening + 5 to 6 trucks daily, when the road from 343 to the proposed facility is narrow and not designed for such traffic
 - Asked what the position of Council was regarding this project (there was no letter of endorsement)
 - Asked that the decision be tabled until scientific proofs were provided regarding the different impacts on the environment (water, traffic, real estate values...etc)
 - Was VERY concerned about the 2 year impact of the construction period, being the adjacent neighbor
- Alan Girard, Chesapeake Bay Foundation
 - Stressed how important the quality of the water in the Choptank is , and how it has improved greatly over recent years (shared concerns about the discharge point from AquaCon)
 - Asked to see a detailed storm water management plan for the facility, with a 1.2 million square feet roof + parking (plan not yet available) – Mr. Showalter expressed that the design would include submerged gravel wetlands, now used in such cases, and also use the “meadows” of the

other half of the parcel to manage the run-off and rain water. Mr. Brown, Engineer for AquaCon also expressed how the Storm Water Management Plan would be compliant with State Standards as well as stricter Swedish standards of sustainability.

- Emily Vainieri, Critical Area Commission Attorney
 - Stated that all requests from the Commission she represents were met and agreed upon by AquaCon
 - Among the requirements spelled out, there shall be no other use than aquaculture and aquaculture related uses in the RCA zone (anything else would have to be brought into the RCA use list, and approve as a change to the growth allocation
 - Critical Area also stipulates that this project will be subject to a detailed site plan review and DPW examination
- Fred Pomeroy:
 - Supports traditional occupation in Dorchester County, which aquaculture qualifies for; however the scale of this project makes it less traditional
 - This project presents itself as being a sustainable operation
 - The Bay Journal talks about the AquaCon facility of Federalsburg being underway
- Ronald Kreitner, retired Director of Planning for the State of Maryland, Horn Point resident:
 - Expressed to the Board that they would be granting a special exception for the largest building in Delmarva
 - Had some concerns for the health and safety impact on the residents of Washington Street
 - Found that there were too many unproven technology elements, which raise a flag for this approval
 - Was concerned that if there was a sudden uptick demand of water for the facility, the impact on the aquifer being used could be felt by all the wells of neighboring properties and on Horn Point

The Board of Appeals Commissioners retired into a closed session to receive advice from Attorney Walter Gunby.

After re-convening into public hearing, each commissioner read their responses to the qualifying criteria and evaluated the application for the special exception request.

The Board denied approval of the Special Exception, several criteria were found to be unsatisfied:

- Criteria b) – the building/use will not be in harmony with the general character of the neighborhood (...)
- Criteria c) – the building/use will be detrimental to (...) economic value of surrounding properties (...)
- Criteria e) – the building/use will have detrimental effect on vehicular or pedestrian traffic
- Criteria g) – the building/use will overburden existing public services and facilities (...)

Vice Chair Hill made a motion to NOT approve the Special Exception requested.

Commissioner Allen seconded that motion, all approved. The request for Special Exception was denied.

Chairman Spicer asked for a motion to adjourn the meeting.

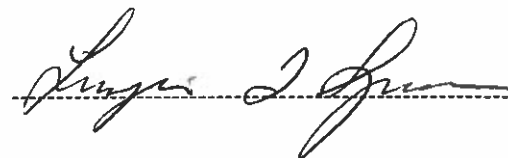
Commissioner Dayton made a motion to adjourn the meeting; it was seconded by Commissioner Allen; all approved.

The meeting adjourned at 9:45pm.

Respectfully submitted.

Herve O. Hamon

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



Approved by the Chair

11/19/20

Date