

The Dorchester County Board of Appeals met in regular session on Thursday, August 23, 2018 in Room 110 of the County Office Building at 7:00 PM. Present were, Catherine McCulley, Chair, Elizabeth Hill, Vice Chair, Lin Spicer, Cindy Smith, Mike Starling, Walt Gunby, Attorney, and Brian Soper, Environmental Planner. Absent: Steve Dodd, Director

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

**Case#2631 – Dale & Shelly Kulp, applicants**

**To request a variance from the tidewater buffer setback requirement of 100 ft. to a reduced tidewater buffer setback of no closer than 70.8 ft. for the structure and no closer than 50.8 ft. for lot fill and grading. The drinking water supply well is proposed to be approximately 60 ft. from tidal wetlands. Property located on Harrison Ferry Road, Hurlock, MD 21643 containing 2.4 acres. Zoned AC-RCA, Agricultural Conservation–Resource Conservation Area.**

Sean Callahan, Lane Engineering, 117 Bay St., Easton, MD, Dale and Shelly Kulp, 202 Tubman Rd., Easton, MD, and any other person who would be testifying in this case, were sworn in.

Ms. McCulley asked Mr. Soper to read the first case. Mr. Soper reviewed the Staff Report dated August 23, 2018. He referenced a letter dated August 6, 2018 from Charlotte Shearin, Critical Area Commission, stating they would not oppose development of this parcel with a single family dwelling, however, they suggest that the location of the parking/turn-around area be redesigned so it will be outside of the buffer. Mr. Soper advised that a revised site plan dated August 14, 2018, was submitted with the parking area relocated outside the buffer.

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

Mr. Callahan reviewed the revised site plan. He advised that a wetland delineation was done and Maryland Department of the Environment has verified the findings; he briefly reviewed the findings. He noted the parcel has been in existence since 1920 and has never been built on. Mr. Kulp advised they do not have plans to build on the parcel at this time. He noted the contract for purchase of the property is contingent on it being a buildable lot.

Ms. Hill asked Mr. and Mrs. Kulp if they understood that they would not be able to build any closer than what is now proposed. Mr. Kulp stated they were aware of this.

Ms. Smith asked the Kulp's why they had chosen this particular lot when there is a limited amount of buildable area. Mrs. Kulp advised they had looked at numerous lots within the County but this lot drew their attention because it is surrounded by Maryland Conservation land.

Ms. McCulley asked Mr. and Mrs. Kulp if they were aware that the house they propose to build will be in the floodplain. Mr. Callahan advised he had spoken with the

Kulps about the amount of fill that will be needed to elevate the building site to comply with FEMA floodplain regulations. Mr. Callahan stated that the entire property is within the floodplain; the highest area of the parcel is 5.72 ft., located at the beginning of an existing driveway. Mr. Callahan noted the flood elevation for the site is 5 ft. Mr. Soper advised that Dorchester County has a 2 ft. freeboard; the first floor living space is required to be at 7 ft. Mr. Callahan noted that all ductwork and mechanical equipment would also need to be elevated to 7 ft.

Mr. Starling asked if the variance is granted, how long the Kulps would have to begin construction. Mr. Soper advised that the variance does not have a time limit and, does not expire. Mr. Soper stated that a potential problem with waiting to build would be that the buffer line could move, which would change the amount of allowable disturbance in the buffer.

Mr. Soper read agency comments into the record. Paul Galanek, Health Department had no objection to the request. Mr. Soper also noted that the Health Department has approved the location for the septic system and it will be outside the 100 ft. buffer. Daniel Wilson, State Highway Administration stated as this is a new residential access on a State Highway, the property owner will need to secure a District Level Access Permit through the Cambridge shop. David Rovansek, GMB Architects/Engineers, temporarily reviewing plans for DPW, sent an email dated August 22, 2018, addressing grading, stormwater comments/recommendations, and five other general items. The Planning Commission, based on the information provided, suggests the Board take into consideration the Critical Area comments and, the applicant needs to demonstrate the hardship.

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.

After all testimony, Ms. McCulley called for a motion regarding this case. Ms. Hill made a motion “to grant the request with the following stipulations: (1) mitigation required at 3:1 for disturbance to the buffer (2) must obtain all applicable permits for grading and filling (3) must obtain all applicable permits from State Highway Administration (4) no future variance requests may be granted closer to the water than the current request.” Mr. Starling seconded, and the motion passed with Ms. Smith objecting.

A motion was made by Mr. Starling to approve the minutes of July 19, 2018. Seconded by Ms. Smith and unanimously carried.

With no further business, a motion was made by Mr. Spicer to adjourn. Seconded by Ms. Smith and unanimously carried. Time of adjournment: 8:20 PM.

Respectfully submitted,

Brian Soper  
Executive Secretary