

The Dorchester County Board of Appeals met in regular session on Thursday, January 21, 2016 in Room 110 of the County Office Building at 7:00 PM. Present were, Catherine McCulley, Chairperson, Elizabeth Hill, Gordon Hill, Wendell Foxwell, Walt Gunby, Attorney, Steve Dodd, Director of Planning. Absent was Dwight Cromwell.

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

Case #2586- Dave Wilson

7:00 pm

To request, a variance from the required 200 ft. setback for a manure storage building to a public way (Fishing Creek). Variance requested is 100ft. Property is located at 5215 Town Point Road Cambridge, MD 21613. Containing 137 acres, Zoned RC- Resource Conservation.

Dave Wilson, and any other person who would be testifying in this case, were sworn in.

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

Ms. McCully advised the applicant of his two options, to rely on his written responses to the criteria or comment on the responses. David Wilson, 6152 East New Market-Elwood Rd., East New Market, MD advised that he would rely on his written responses.

Mr. Wilson stated that he has a cost sharing contract with NRCS (National Resource Conservation Service) to build the storage building. Mr. Wilson stated that he worked with Dorchester County Soil Conservation and understood the setback to be 100 ft. which was to keep the building within the critical area setback. Mr. Wilson stated that he found out about the 200 ft. setback when the contractor filed for the building permit. The building pad is in place. Mr. Wilson noted that if he has to move the building, he will lose about 7 acres of irrigated land.

Mr. Dodd explained that the zoning code states that manure sheds, poultry houses, etc., must be 200 ft. away from property lines and public ways. Public ways include roads and all navigable waters of the County. Fishing Creek is navigable water because it is tidal.

Mr. Hill suggested that if the building was moved and turned slightly, the 200 ft. setback could be met. Mr. Wilson stated the building would then be next to the driveway and his Aunt's residence. She would be looking directly at the open side of the manure shed and it would still interfere with the irrigation system.

Mr. Dodd read agency comments into the record. Based on the information provided, the Planning Commission would make a favorable recommendation. The Health Department had no objection. The Department of Public Works had no comment or objection to the variance. The applicant will need ensure he can meet Maryland Department of Environment requirements for CAFO operations. A stormwater management and erosion sediment control plan will need to be submitted and approved if the project involves disturbance of greater than 5,000 sq. ft.

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.

At this time, each Board member explained his decisions regarding the criteria.

After all testimony, Ms. McCulley called for a motion regarding this case. Ms. Hill made a motion "to approve the variance as presented." Seconded by Mr. Foxwell with Mr. Hill opposing. The motion passed 3 to 1.

Case # 2587 – Fraternal Order of Police, Cambridge Lodge 27 Inc. 7:30 pm

To request a Special Exception to authorize the construction of a building under the permitted use for meeting halls and facilities for clubs, lodges, and fraternal societies. Property is located at 2056 Dailsville Road Cambridge, MD 21613 Lot 2. Containing 9.69 acres, Zoned RR- Rural Residential

Christopher Robinson, Esq., FOP President Tom Hurley and any other person who would be testifying in this case, were sworn in.

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

Ms. McCully advised the applicant of his two options, to rely on his written responses to the criteria or comment on the responses. Christopher Robinson, Esq., 505 Poplar St., Cambridge, MD advised that he would rely on his written responses and supplement the written responses.

Mr. Robinson reviewed the application. Mr. Robinson referred to the County Code, under "Table of Uses by Zoning District" pg. 9, "Use Category", he noted there is a specific exception for this type of use. He also noted that the use is consistent with the Comprehensive Plan.

FOP President Tom Hurley introduced himself and gave a brief overview of the FOP organization. Mr. Hurley advised that the building will not be rented to the general public. It will be for use by the active members of the organization and their families only. FOP meetings are held monthly and there are no regular hours of operation.

Mr. Hill asked if the FOP members would have objections to the noise of guns firing at the Skeet Club. Mr. Hurley stated no. Mr. Hurley stated that the FOP would be willing to provide the Skeet Club with a letter or put in the deed an agreement that they will not complain about the noise and if the lodge is ever sold, the new owners would have to abide by that agreement.

Mr. Dodd read agency comments into the record. Based on the information provided, the Planning Commission made a favorable recommendation, but would like the Board of Appeals to ask questions about the number of events planned, where and how much parking will be provided and whether there would be any third party rentals of the facility. Department of Public Works had no comment or objection to the variance. A site plan with stormwater management and erosion sediment control plan

will need to be submitted and approved. The project will also need to meet forest conservation requirements. The Health Department had no comments.

Mr. Dodd entered into evidence a letter from the Cambridge Skeet and Gun Club, dated January 11, 2016, signed by their Board of Directors, addressed to the Board of Appeals.

No one spoke in favor of this request.

Tom Hook, President of the Cambridge Skeet and Gun Club came forward to speak in opposition to the variance. Mr. Hook gave a brief history of the Club. There are 2 skeet fields, a trap field, sporting clay field and pistol/rifle range. He noted the Cambridge Police have unrestricted use of the pistol and rifle range for practice. The Club has concerns about further conflict with the lodge because of the noise created when the gun club is in use. The Skeet Club would prefer that the land stay in agricultural use. Mr. Hook noted that several gun clubs on the Eastern Shore have been restricted or closed because of legal pressure from surrounding neighbors.

Randall White, 2210 Dailsville Rd., Cambridge, MD also spoke in opposition to the FOP lodge. The lodge will be built next to his property and he fears it will be a detriment to the value of his property.

Douglas Foxwell, 5513 Cedar Grove Rd., East New Market MD spoke in opposition to the request. He gave a brief history of the club, and suggested that as an example, if a church should purchase the FOP lodge in the future, the Skeet Club would surely be shut down.

Councilman Tom Bradshaw, 5706 Rhodesdale-Vienna Rd, Rhodesdale, MD a member of the Skeet Club spoke in opposition to the request. Mr. Bradshaw believes that when the Comprehensive Plan is updated, this area will no longer be consistent with the Plan. He also advised that the sporting clay range has portable trailers with target throwers on it that are sometimes aimed in the direction of the FOP property.

Mr. Robinson stated that Councilman Bradshaw suggested that there might be some shooting that reaches over onto the FOP property. President Hook stated that was not so and showed where the different shooting ranges were set up. From the audience, Planner Windsor stated that he disagreed with President Hook. On special occasions, the portable sporting clay equipment is aimed toward the FOP property. Mr. Windsor noted that the Club had a gentleman's agreement with Billy Beckwith (property owner) to shoot in that direction. Mr. Hurley advised that they would be agreeable to having a gentleman's agreement, written agreement or language in the deed that the FOP had no problem with this.

Odin Knudson, 608 Hills Point Rd, Cambridge, MD a member of the Skeet Club spoke in opposition to the request. He talked about how the facility teaches responsible use of firearms.

Ray Beck, 5122 Brooks Rd. Woolford MD also spoke in opposition to the FOP request. He talked about the laws in Carroll County and how the five or six pre-existing

gun clubs had been affected, noting that several of the gun clubs have shut down due to new laws being enacted to protect surrounding subdivisions.

Ms. Hill asked Mr. Dodd, should this request not be approved, could a house be built on the property without a special exception. Mr. Dodd advised that as long as all permits were obtained, and the Health Department approved the septic system, a house could be built on this piece of land with no special exception, nor would they have to sign any agreements about noise or firing direction. Mr. Dodd pointed out that the FOP is willing to sign agreements or put in the deed that they will not complain about activities at the Club.

There was a discussion as to whether covenants or restrictions placed in a deed would be enforceable to the next property owner or would end with the FOP. Chairwoman McCulley stated that at this point in time, the Board would like to stop the hearing and have Mr. Robinson research whether the covenants would carry over to the next owners. Chairwoman McCulley asked President Hook if this would satisfy the Gun Club. President Hook stated "no". Chairwoman McCulley pointed out that since the property is for sale, the FOP scenario would be better than the other options discussed. President Hook stated that since the property is zoned RR, they would have no problem with someone purchasing the property and building a home on it. Ms. McCulley asked President Hook if this homeowner made complaints about the Club, they would not take issue to it? Mr. Hook stated that the homeowner will not be renting out the facility. Ms. McCulley advised that the FOP has stated that they will not be renting out the facility. President Hook believes that if the property sold in the future, because a zoning change has been made, the Skeet Club will have no alternatives left.

Ms. McCulley asked Mr. Dodd if the Board could limit the special exception to the FOP. Mr. Dodd stated that the special exception could be limited to one owner and non-transferable to another owner. President Hurley again reiterated that over and above the restricted special exception, he would be willing to sign a contract with the Gun Club or have put in the deed, wording that the FOP would not complain about noise or functions going on at the Club.

Mr. Gunby spoke with Mr. Robinson about looking into a covenant that can be put into a deed that would run with the land or, a contract that might place a binding resolution on the FOP. Mr. Gunby suggested that it might be possible to have the County Commissioners instruct the County Attorney to drawup some type of ordinance to protect the Skeet Club from complainers.

Chairwoman McCulley asked for a motion on suspending the case at this time, and to take this case up again once the research has been done and the FOP has had time to speak with the Skeet Club. Ms. Hill made the motion. Seconded by Mr. Foxwell and unanimously carried.

It was requested that a date be set to hear this case again. All present agreed to continue this case to the February 25, 2016 meeting.

To request a special exception to allow installation of a 20 mw utility scale solar energy project on 111 acres zoned AC- Agricultural- conservation. Property is located on Harper Road.

Eric Miller, and any other person who would be testifying in this case, were sworn in.

Mr. Dodd read the case and all pertinent information into the record. Mr. Dodd spoke about the process a utility scale solar project must go through. Mr. Dodd advised the Board that he has provided them with an excerpt from the Zoning Code, Article 9, Section 155-50 (LL) which lists the solar energy utility scale supplemental requirements. In addition to the regular special exception criteria, there is supplemental criteria specifically for solar energy utility scale projects. The Board will need to complete both sets of criteria at the end of the hearing.

Ms. McCully advised the applicant of his two options, to rely on his written responses to the criteria or comment on the responses. Eric Miller, 70 N. Lincoln St., Arlington, VA advised that he would rely on his written responses and comment on same.

A variance will be needed for the 8 ft. fence that is required around the substation. The applicant was advised that he will need to come before the Board at another time for this variance.

Mr. Miller reviewed the site plan. Mr. Miller asked Kevin Shearon, DMS & Associates, P O Box 80, Centreville, MD help answer project questions as his company is involved with this project. Mr. Miller also advised that they had spoken with some of the surrounding residences on Monday. No one raised concerns over the project. Mr. Miller reviewed the seven criteria questions and his comments.

Mr. Hill asked how the ground is prepared for installation of the panels. Mr. Shearon advised the panels are on I-beams which are driven into the ground. The area is seeded and cut several times a year. Ms. McCulley stated that she understood that the land can be returned to agriculture very easily. Mr. Miller agreed.

Mr. Foxwell asked about plantings for screening. Mr. Miller advised that he will be addressing this during site plan presentation. Mr. Dodd stated the code states the plantings must be able to reach 8 ft. within two years.

Mr. Dodd read agency comments into the record. The Department of Public Works, letter dated 1-20-16, had no comment or objection to the request. The applicant has been working with Public Works with regard to stormwater management and erosion sediment control meeting current regulations. The site access and configuration of the substation near Linkwood Rd. have also been in discussion and have not been finalized at this time. (It was noted that possibly the statements made in this letter are for another project). The Health Department had no objection to the request. The Planning Commission, based on the information provided, made a favorable recommendation.

No one spoke in favor of this request. Ronnie Andrews, 4721 Williamsburg Rd., Hurlock, MD spoke in opposition to the request. Mr. Andrews pointed out his property on the site map, which contains a runway he owns and leases out for crop dusting. He has concerns about more utility poles and wires in the area and glare from the panels that might affect the pilots. Mr. Miller stated that he is aware of the runway. Mr. Hill asked if the FAA has any regulations concerning airstrips and solar panels. Mr. Andrews stated that it would be up to the pilots to contact the FAA about the rules and regulations. Ms. McCulley suggested that Mr. Andrews and Mr. Miller exchange contact information so Mr. Miller can keep Mr. Andrews apprised of the final layout. They agreed.

Ms. McCulley 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, Ms. McCulley called for a motion regarding this case. Mr. Foxwell made a motion "to approve this request". Seconded by Ms. Hill and unanimously carried.

Case # 2589 – OneEnergy Dorchester, LLC

8:30 pm

To request a variance from Section 155-50(A)(4)(c) of the Dorchester County Zoning Ordinance to permit a seven foot tall security fence around the proposed solar array and electrical enclosure and an eight foot tall security fence around the sub-station equipment enclosure (front, sides and rear). Property is located at 3714 Linkwood Road Linkwood, MD 21835. Containing 116.62 Acres, Zoned AC- Agricultural Conservation.

Jeffrey Thompson, Esq, 124 N. Commerce St., Centreville, MD, Kevin Shearon, DMS, PO Box 80, Centreville, MD, Robert Collier, OneEnergy, 2330 Western Ave., Seattle, WA and any other person who would be testifying in this case, were sworn in.

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

Ms. McCully advised the applicant of his two options, to rely on his written responses to the criteria or comment on the responses. Jeffrey Thompson advised that he would rely on his written responses.

Mr. Shearon reviewed the site plan. Mr. Thompson spoke about bringing the fencing for the substation up to Delmarva Power's regulations. He also spoke about the fencing for the solar array and stated that they would like to install the 7 ft. fence without barbwire at the top.

Mr. Dodd read agency comments into the record. Based on the information provided, the Planning Commission made a favorable recommendation. The Health Department had no comment. The Department of Public Works had no comment.

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

Ms. Hill advised that she would abstain from voting on tonight's request as she did not vote on the original request due to being an adjoining land owner.

Ms. McCulley 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, Ms. McCulley called for a motion regarding this case. Mr. Foxwell made a motion "to approve this request". Seconded by Mr. Hill, with Ms. Hill abstaining.

A motion was made by Ms. Hill to approve the minutes of the November 19, 2015 meeting. Seconded by Mr. Hill and unanimously carried.

Election of Officers – Ms. Hill made a motion that the Chairperson remain the same. Seconded by Mr. Hill and unanimously carried. Mr. Foxwell made a motion to nominate Ms. Hill for Vice Chair. Seconded by Mr. Hill and unanimously carried.

With no further business, a motion was made by Ms. Hill to adjourn. Seconded by Mr. Foxwell and unanimously carried. Time of adjournment: 10:55 PM.

Respectfully submitted,



Steve Dodd
Executive Secretary