The Dorchester County Board of Appeals met in regular session on Thursday, March 19, 2015 in Room 110 of the County Office Building at 7:00 PM. Present were Ed Howard, Vice-Chairman, , Wendell Foxwell, Catherine McCulley, Chairperson, Elizabeth Hill, Dwight Cromwell, Walt Gunby, Attorney, Rodney Banks, Deputy Director, and recording Teresa Robinson.

Case #2571 – Debra & A J Willey

To request a variance from the front yard setback off a right-of-way required to allow for the construction of an accessory structure, and to request a special exception to exceed the limit on maximum accessory structure square footage. The property is located at 4402 Bayshore Road, zoned AC – Agricultural Conservation Zoning District and contains 1.98 acres.

Mr. and Mrs. Willey, and any other person who would be testifying in this case, were sworn in.

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

Mr. Willey stated that he would rely on his written responses and make a few comments. Mr. Willey stated the reason for his request was to store equipment and improve the appearance of his property since his occupation is working on the water and needs the extra storage. The proposed pole building will be located 8 ft. to the property line that abuts a private road right-of-way, the setback requirement from the right-of-way is 40 feet.

Mr. Banks had no agency comments to read into the record. The Planning Commission gave a favorable recommendation if conditions are met.

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. Mr. Foxwell made a motion to approve this request with conditions. Seconded by Mrs. Hill and unanimously carried.

Case # 2572 – Sean Leatherman, Owner
Michael Dodd, Esq., applicant

To request as a special exception for a home-based contractor to park additional commercial vehicles on a lot 80,000 square feet or larger, located at 5367 Chateau Road and contains 4.83 acres. AC-Agricultural Conservation Zoning District.

Mr. Michael Dodd, Sean Leatherman and any other person who would be testifying in this case, were sworn in.

Mr. Dodd stated that he would supplement any criteria and make a few comments.

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

Mr. Dodd questioned Mr. Leatherman about the nature of his business, the number of employees, and the number of vehicles that would be parked in the yard at any given time. Mr. Leatherman, owner of Southside Land Management stated that he employed (10) people, had 12 vehicles and the hours of operations will be from 8 a.m. to approximately 5 p.m. His requests for a home based business is primarily just to have the employees arrive in the morning, park their vehicles directly behind the requested 40 x 60 pole building and leave for the day. The requested pole building will be used to store vehicles and supplies for the business and there will be no actual business done on the property itself. At present there is no activity on the property. Mr. Leatherman is planning to build a home and construct the pole building within the next few months.

Mr. Banks defined a Home-based contracting business as stated in the Zoning Ordinance. The business shall not alter the residential appearance, no noise, odor, dust, vibration, etc. and the business is conducted by persons residing in the dwelling. The total number of commercial vehicles allowed to park on the property is determined by the square footage of the property. Under 40,000 sq. feet, one commercial vehicle allowed, more than 40,000 sq. ft,. no more than two. For a special exception, there is an entirely different criteria that has to be met. The main point is the square footage increases to 80,000. Larger than 80,000 sq. ft. he Board shall determine the number of commercial vehicles that may be parked.

Mr. Dodd also argued the point of neighboring businesses in the area, their appearance and the amount of traffic generated. Mr. Dodd also stated in Section 155-50 (P)(2)(b)(ii) vests the Board of Appeals with the authority to determine the number of commercial vehicles that may be parked on the property.

Mr. Banks read agency comments into the record. The Department of Public Works, Mr. Greg LeBlanc commented that Chateau Road is not constructed to handle such a volume of commercial vehicles. Also, the road has a tar and chip surface and has a minimum width, which Mr. LeBlanc feels that the road will suffer from the commercial vehicles. The Planning Commission made an unfavorable recommendation.

Ms. McCulley announced the end of testitmony from Mr. Dodd and Mr. Leatherman and opened comments from the audience to be heard.

Mr. Tom Mills – 3465 Beaver Neck Rd. - Concerned about the increase in traffic, keeping the neighborhood quiet.

Mr. Ron Bryan – 307 Chateau Dr. – Did not want to see a business on Chateau Dr., keeping heavy equipment on the property.

Mr. Aaron Harman – 5339 Chateau Rd. – Excessive traffic, does not want to see this type of venture in this area.

Mr. Zach Smith (Attorney) – 114 Bay Street, Bldg. C, Easton, MD – Questioning standards for use, vehicle noise and employee noise

Ms. Sylvia Nichols – 5329 Chateau Rd. – Safety of children, heavy traffic, ruin the scenery, and the large equipment up and down the road.

Mr.& Mrs. Donald Jones – 5371 Chateau Dr. - Hours of operation, bad start as neighbor, heavy equipment up and down the road.

Mr. Dodd gave a brief closing stating Mr. Leatherman could scale back to a possible (6) vehicles, some vehicles are actually left on the job overnight.

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. Howard made a motion to "deny this special exception request" , seconded by Mr. Foxwell, and carried by remaining Board Members except Mr. Cromwell who opposed.

Case # 2573 – Michael Willey (trustee, owner)
Michael Dodd, Esq., applicant

To request a variance from the floodplain elevation requirements for an accessory structure exceeding 900 square feet in area. Property located at 2343 Hoopers Island Road contains .68 acres and is in the V – Village Zoning District.

Mr. Michael Dodd and Mr. Willey, and any other person who would be testifying in this case, were sworn in.

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

Mr. Dodd stated that by way of Mr. Willey's testimony to supplement their responses. The requested variance for is a pole building that was used for storage and lost in a tornado in 2014. The structure was put back on the same existing foundation but was a smaller structure than the previous building which was built in 1946. At that time the County Zoning Ordinance minimum floodplain elevation for this accessory structure was at 6.5 feet. Mr. Willey built this accessory structure to 3.4 feet, a variance of 3.1 feet is requested. The building was constructed by a company in Delaware and was inspected by Mark Adams of MDIA. Mr. Adams job is strictly to approve the building structure and not the elevation level which is the responsibility of Planning and Zoning. At the time when Mr. Adams inspected the structure Mr. Willey assumed that that was all that needed to be done. This request is for a 3.1 variance, when the structure was constructed.

Mr. Banks read agency comments into the record. MDE recommended if granted to require proper flood openings, elevation of all mechanical and electrical servicing the building, and a signed Declaration of Land Restriction (Nonconversion Agreement) to be recorded with the deed. The Planning Commission at the March 4, 2015 made an unfavorable recommendation.

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. Mr. Foxwell made a motion "to approve" this request with the following stipulations: Provide proper flood openings (vents), elevation of all mechanical and electrical equipment servicing the building, an elevation certificate, and a signed Declaration of Land Restriction (Non-conversion Agreement).

Seconded by Mr. Howard and unanimously carried.

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

With no further business, a motion was made by Mr. Foxwell to adjourn. Seconded by Mr. Cromwell and unanimously carried. Time of adjournment: 10:05 PM.

Respectfully submitted,

Rodney Banks
Deputy Director