

The Dorchester County Board of Appeals met in regular session on Thursday, November 19, 2015, in Room 110 of the County Office Building at 7:00 PM. Present were Edwin Howard, Vice-Chairman, Wendell Foxwell, Elizabeth Hill, Gordon Hill, Walt Gunby, Attorney, Steve Dodd, Director, with Sherry Wood recording. Absent were Catherine McCulley and Dwight Cromwell.

An introduction was made by Vice-Chairman Howard, explaining the procedures of the meeting to the audience. He then asked Mr. Dodd to read the first case.

Case #2583 – Delmer & Gloria Willey

To request, a variance pursuant to Section 155-50(X).2.H. of the Dorchester County Zoning Code to permit the relocation of a manufactured home which legally existed elsewhere in Dorchester County as of January 1, 1999. Applicant proposes to relocate said manufactured home on his property located at 1845 Brannock Neck Road. The manufactured home to be relocated must meet all of the standards set forth in Section 155-50(X) (1), with the exception of the roof pitch. Property is located at 1845 Brannock Neck Road, Cambridge, MD 21613, and contains 18 acres. Zoned Agricultural Conservation/Resource Conservation

Rev. Willey, 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. Howard advised the applicant of his two options, to rely on his written responses to the criteria or comment on the responses. Rev. Willey, 1703 Perseus Road, Church Creek, MD advised that he would rely on his written responses.

Mr. Foxwell asked if the home will be relocated to an area within the floodplain. Mr. Dodd advised that the trailer will be in the floodplain, but does not need a floodplain variance. It will need to meet elevation requirements. Rev. Willey stated that he was aware of this requirement. Mr. Hill asked if the variance was for the roof pitch or relocation of the manufactured home. Mr. Dodd advised that the variance is for relocation of the home. The roof pitch is 3/12 which meets the Comprehensive Plan adopted before the zoning ordinance.

Mr. Dodd read agency comments into the record. The Health Department had no objection to the variance. The Planning Commission advised that based on the information provided, the case is so unique that the applicant needs to prove his case. The Department of Public Works had no objection to the variance, however 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.

Mr. Howard announced the end of testimony and the Board began their deliberations.

Mr. Foxwell made a motion to approve the applicant's request and Ms. Hill seconded. The motion was unanimously carried.

Case #2584 – Thomas & Jennie Holmes

To request a variance from the front yard setback requirement of 40 ft. in the Rural Residential zone on a local road, to permit the applicant to relocate their existing dwelling within 18 ft. of the front property line abutting Green Point Road, a variance requested of 22 ft. Property is located at 3518 Green Point Road, East New Market, MD 21631 containing .126 acres

Thomas and Jennie Holmes, 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. Howard advised the applicants of their two options, to rely on their written responses to the criteria or comment on the responses. Mrs. Holmes, 3518 Green Point Road, East New Market, MD advised that they would rely on their written responses and add some additional information.

Mrs. Holmes advised that they have applied for a grant from FEMA to move the house from the “V” zone to “AE” zone per FEMA recommendation. Mrs. Holmes submitted pictures of the house for Board review. She also submitted elevation certificates done by Jeff Hubbard of Lane Engineering. She stated that the house was in the “AE” zone until the adoption of the new maps in 2015, which put 25% of the house in the “V” zone. Mr. Dodd noted that even if 1/10 of the house is in the “V” zone, the entire house is considered to be in that zone. House will be lifted and aligned with the other houses in the area and be closer to the road but will not restrict access.

Mr. Hill asked Mr. Dodd if he had received any responses from the surrounding neighbors. Mr. Dodd stated that he had not. Mrs. Holmes submitted letters from neighbors in support of the variance.

Mr. Hill clarified that the variance is for setback only. He asked if the Holmes would need to return to obtain a variance to raise the house. Mr. Dodd advised that they are building the house high enough that they will not need a floodplain variance. There will be a garage beneath the house. Mr. Dodd stated that a garage is permissible below the flood protection elevation, but they will need to sign a Non-Conversion Agreement to never finish the garage off or make it into living space.

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

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

Mr. Howard announced the end of testimony and the Board began their deliberations.

Ms. Hill made a motion to approve the applicant’s request and Mr. Foxwell seconded. The motion was unanimously carried.

Case #2585 – Dixon Enterprises, Inc., LLC

To request an after-the-fact a variance from the Dorchester County Floodplain Ordinance and map to allow an accessory structure converted to a residential structure (hunting lodge) to have its lowest floor below the required flood protection elevation of 8.0 ft. (NAVD in zone AE). Lowest floor of (converted) structure stands at 5.4 ft. NAVD. A variance of 2.6 ft. is requested. Property is located at 3452 Elliott Island Road, Vienna, MD 21869 containing 1.64 acres. Zoned Resource Conservation.

Tim Marshall, applicant, Tim Marshall & Associates, 2114 Horn Point Road, Cambridge, MD and Wilson Dixon, owner, Dixon Enterprises Inc., LLC, 1614 Seeneytown Rd., Dover DE, 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. Howard advised the applicant of his two options, to rely on his written responses to the criteria or comment on the responses. Mr. Marshall advised that he would rely on his written responses.

Mr. Foxwell asked Mr. Dixon if he was aware that he needed a permit to do the renovations. Mr. Dixon answered that he was aware that he probably needed a permit. Ms. Hill asked Mr. Dixon if he knew when he raised the floor, how high it needed to be. Mr. Dixon stated that he raised it as high as he could to maintain an 8 ft. clearance, but did not know the exact height they needed to be raised to meet the floodplain requirements.

Mr. Foxwell pointed out that item “c” under No. 1 of the applicant’s application was not circled. Mr. Marshall stated that “did” should have been circled.

Ms. Hill asked when the renovations were done. Mr. Dixon advised that he started the outside in February and the inside around March, during the revision of the floodplain maps. Mr. Dodd stated that “grandfathering” is triggered by when the permit is issued not when the work was done.

Mr. Dodd pointed out that there are many large accessory buildings in the County, within the floodplain, that have the potential to be converted to living space. He advised the Board members that they must find something peculiar, special or unique to this property that makes it different from other properties in the same zoning district, otherwise, all these properties would be entitled to obtain the same relief.

Mr. Foxwell asked if the building could have been converted to a lodge if Mr. Dixon had obtained a permit. Mr. Dodd stated that a permit would not have been issued because the floor being built on is below the required elevation. Mr. Dodd advised that a lodge would be a permitted use on the property but the vacant house would probably have to be torn down as there is a density issue since the property is zoned RCA, Critical Area, 1/20.

Mr. Dodd advised that for a structure to qualify not to be elevated, it has to meet the floodplain definition of an accessory structure. It can’t be finished off inside, it can only be used for storage or vehicle parking. The building must also be under 900 sq. ft. If an accessory structure meets all these qualifications but is larger than 900 sq. ft., it

must be built to the base flood elevation. Mr. Dixon's building does not meet the size requirement.

TLG Engineering a structural engineering firm, was called in to make sure the structure was building code compliant. The County inspector was unable to inspect the structure because the work Mr. Dixon did covered it.

Ms. Hill asked what the building was like before the present owner started construction. There was one overhead garage door. Mr. Dixon advised that the previous owner was using it for storage as well as staying in it during hunting season. No interior work had been done. There were several bunk beds and an electric stove in it when Mr. Dixon purchased it. Mr. Dixon thought that he was continuing the use the previous owners had especially since the vacant house is inhabitable.

Ms. Hill asked if in their motion they stipulated that this could never be used for anything other than a hunting lodge (not a year round residence), if this could be considered as the uniqueness of the property. Mr. Dodd again asked what makes this property unique or special, referring back to the criteria questions the Board must answer.

Mr. Dodd read agency comments into the record. The Health Department had no objection to the variance. Based on the information provided, the Planning Commission supports the Planning Director's position that the applicant needs to prove unnecessary hardship criteria. The Department of Public Works had no objection, a stormwater management plan and erosion, sediment control plan will need to be submitted for review/approval if the project disturbs more than 5,000 sq. ft. Mr. Dodd reviewed a letter from Kevin Wagner of MDE dated November 2, 2015, objecting to the variance.

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

Mr. Howard 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, Mr. Howard called for a motion regarding the regular variance. Ms. Hill made a motion "to approve the regular and floodplain variance with the following stipulations: (1) The structure can't be used as a primary residence by the owner or future owner. (2) All other permits such as electrical, building and plumbing will be obtained by the applicant and fees paid. (3) All mechanical systems are to be raised above the floodplain requirements, to include heat, air and electrical systems. (4) Floodgates will be installed to allow water to flow between the new floor and the concrete pad. (5) The existing house on the property will be demolished." The motion was seconded by Mr. Foxwell. Mr. Howard asked all in favor to say yes. Ms. Hill and Mr. Foxwell responded. He then asked all who were against to state no. Mr. Howard and Mr. Hill stated no. As this was a tie vote, Mr. Howard disqualified the request for the variance. The motion did not pass. The applicant and owner were informed of their right to appeal the case to the Circuit Court within thirty (30) days.

A motion was made by Mr. Foxwell to approve the minutes of the October 22, 2015 meeting. Seconded by Ms. Hill and unanimously carried.

Mr. Dodd advised that there would be no December meeting as no cases were scheduled. Usually the Board elects new officers at the December meeting and approves the meeting schedule for the coming year. The meeting scheduled was approved, however the members decided to put the elections off until the January meeting.

Mr. Howard stated that it has been a pleasure serving on the Board for the last 10 years.

With no further business, a motion was made by Mr. Foxwell to adjourn. Seconded by Mr. Hill and unanimously carried. Time of adjournment: 9:05 PM.

Respectfully submitted,

A handwritten signature in cursive script that reads "Steve Dodd".

Steve Dodd
Executive Secretary