

The Dorchester County Board of Appeals met in regular session on Thursday, July 21, 2011 in Room 110 of the County Office Building at 7:00 PM. Present were Ed Howard, Vice-Chairman, Dwight Cromwell, Wendell Foxwell, Catherine McCulley, Chairperson, Elizabeth Hill, Walt Gunby, Attorney, Steve Dodd, Director of Planning, with Merris Hurley recording.

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

Case #2398 – J. Tyler & Lisa Blue, Owner
William McAllister, Jr., Applicant

To request a variance to the tidewater buffer setback to allow an expansion of an existing dwelling to be located within the tidewater buffer. Property located at 5565 Morris Neck Road and contains 11.93 acres. RC, Resource Conservation Zoning District.

Mr. McAllister, Mr. Blue, Mr. Erickson, 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.

Sandy McAllister, attorney for the Blue's, explained to the Board that they would rely on their written responses to the criteria, but would also add that they don't understand the staff's unfavorable recommendation when Julie Roberts from the Critical Area Commission does not oppose the request.

Mr. McAllister argued that submitting an application for a variance does not mean that the applicant is created the need for the variance. The house is being raised to a safe level (for floodplain requirements) which is the reason for the variance.

Lars Erickson, PO Box 35, Newcomb, MD, the designer of the addition, came forward and explained that the applicant wanted to expand the house with the least amount of impact possible. The dwelling's existing bathroom is through a bedroom and the applicant wanted to have a bathroom accessible without having to walk through a bedroom.

Mr. McAllister submitted Applicant's Exhibit #1, a deed to the property; and Applicant's Exhibit #2, the SDAT data sheet for this property, showing the house was built in 1920. The house now has three bedrooms and will have four after the renovation.

Mr. McAllister explained that the lot is constrained by wetlands, the house is basically on an "island of uplands". The applicant will not be exceeding the lot coverage limitation. The request will not adversely impact fish, wildlife or plant habitat with the Critical Area. He also stated that Julie Roberts of the Critical Area Commission believes the request is in harmony with the general spirit and intent of the Critical Area Law.

Mr. McAllister submitted Applicant's Exhibit #3, a title of the parcel before 1948.

Mr. Dodd asked Mr. McAllister about the narrative that he submitted, specifically page 2, referencing the building code requirement that a house have a public bathroom. Mr. Dodd asked if Mr. Erickson could show him in the building code where this section is located. Apparently, Mr. Erickson told the Board, he was using a different code from the one Mr. Dodd provided him to look this up, because he could not find it. Mr. Dodd wanted to be clear that the applicant was not saying that if this variance was denied, he would be in violation of the building code. Mr. McAllister told the Board that was correct, they were not saying that.

Mr. Bonsteel asked why the bathroom/mudroom could not be built into the existing screened porch. Mr. Erickson said that everything would have to be reconfigured and it would have more overall impact.

Mr. Dodd read agency comments into the record. The Department of Public Works had no comments. The Health Department had no comments. The Planning Commission, based on the information at hand, agreed to support the Director of Planning in his recommendation that the staff supports the steps/landings, but not the mud room/bath room. The Critical Area Commission did not oppose the variance, but stated that mitigation at a 3:1 ratio is required, as well as a Minor Buffer Management Plan.

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. Howard made a motion "to approve this request with the stipulation that the applicant must mitigate at a ratio of 3:1." Seconded by Mr. Foxwell and unanimously carried.

A motion was made by Mr. Cromwell to approve the minutes of the May 19, 2011 meeting. Seconded by Mr. Foxwell and unanimously carried.

With no further business, a motion was made by Mr. Cromwell to adjourn. Seconded by Mr. Foxwell and unanimously carried. Time of adjournment: 9:00 PM.

Respectfully submitted,



Steve Dodd
Executive Secretary