

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

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 #2406 - Hosier Memorial Church

To request a variance from the floodplain requirements to allow mechanical equipment to remain below flood protection elevation. Also to request a variance to allow replacement of handicap ramps and concrete walkway with the tidewater buffer. Property located at 2639 Hoopers Island Road and contains 1.77 acres. V, Village Zoning District.

Mr. Whitten, Mr. Travers, 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.

Steve Whitten, 3113 Bayview Drive, Church Creek, Maryland and Calvin Travers, 2519 Old House Point Road, Fishing Creek, Maryland explained to the Board that they would rely on their written responses to the criteria but added that the tidewater buffer goes through the church because of the tidal marsh on the other side of the county road. They are proposing to raise the church above the flood protection elevation, but the duct work would be below the flood protection elevation. The raising of the church means the handicap ramp will need to be expanded.

Mr. Dodd read agency comments into the record. The Department of Public Works had no comments. The Health Department had no objection. The Planning Commission had no objection to the request. The Critical Area Commission had no objection to the request, but suggested 3:1 mitigation and a Buffer Management Plan. Dave Guignet from the Maryland Department of the Environment stated that if the utilities area existing they are okay, but is really dependent on local floodplain regulations.

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 stipulation:

applicant must mitigate at a ratio 3:1.” Seconded by Mr. Howard and unanimously carried.

Case #2407 - Judd Shepard, III, et al

To request a variance from the tidewater and expanded buffer to allow replacement of a pump house and dwelling. Property located at 3730 Golden Hill Road and contains 62 acres. RC, Resource Conservation Zoning District.

Mr. Shepard, 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.

Judd Shepard, 14807 Hanover Pike, Upperco, Maryland explained to the Board that he would rely on his written responses to the criteria. The dwelling needs to be replaced and the pump house is too small to make any repairs necessary to the well.

Mr. Dodd read agency comments into the record. The Department of Public Works had no comments. The Health Department had no objection. The Planning Commission and no objection. The Critical Area Commission was not opposed to the granting of a variance but suggested mitigation at a 3:1 ratio.

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 following stipulation: applicant must mitigate at a ratio of 3:1.” Seconded by Mr. Foxwell and unanimously carried.

Case 2408 - Jack and Carla Mooney

To request a variance from the tidewater buffer to allow the replacement of existing steps with deck landing and deck addition. Property located at 2355 Hoopers Island Road and contains 1 acre. V, Village Zoning District.

Mr. Mooney, 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.

Jack Mooney, 19020 Tyson Road, White Hall, Maryland explained to the Board that he would rely on his written responses to the criteria but would amend his answer to 1.a. and change to “do” and “would”.

Mr. Dodd read agency comments into the record. The Department of Public Works had no comments. The Health Department had no objection. The Planning Commission had no objection. The Critical Area Commission was not opposed to the granting of a variance but suggested mitigation at a 3:1 ratio. A letter of support from neighbor Jeanne Phillips was read into the record.

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 stipulation: applicant must mitigate at a ratio of 3:1." Seconded by Mr. Howard and unanimously carried.

A motion was made at this time by Mr. Howard to take a short recess. Seconded by Mr. Foxwell and unanimously carried.

Case #2390 - Wayne Markey

To request a decision on allegation of error to overturn the Dorchester County Planning Commission's decision on October 6, 2010 ruling that the expanded buffer provisions of the March 8, 2010 Critical Area Regulations apply to the Markey intra-family transfer. Property located at 4407 Pine Top Road and contains 27 acres. RC, Resource Conservation Area.

Mr. Markey, Mr. Malkus, 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 and entered into the record a list of exhibits.

Wayne Markey, 1805 Valleybrook Drive, Kingsville, Maryland presented his case to the Board with a power point presentation. (A copy of said presentation was submitted into the record and is a part of the file.) He raised a continuing objection that the Board only granted him 30 minutes to present his case. Mr. Markey argues that his subdivision would have been approved before the March 8, 2010 law change. He also explained that Mr. Nabb came to conclusions without discussion with the Planning Commission. He believes that the Planning Commission is using the Critical Area Laws to render language in Section 140-54 meaningless. He told the Board that the Planning Commission is picking certain sections of the code to follow and not seeing the statute as a whole.

Chad Malkus, counsel for the Planning Commission, told the Board that they should let the record speak for itself. He explained that no variances were granted to Mr. Markey and the Planning Commission was acting within its confines in denying the

subdivision approval. Both the Circuit Court and the Court of Special Appeals have upheld the Planning Commission's decision.

Mr. Markey submitted Applicant's Exhibit #1, BOA By-Laws, Applicant's Exhibit #2, Planning Commission By-Laws, and Applicant's Exhibit #3, Applicant's Power Point presentation.

A motion was made by Mr. Howard to adjourn and speak with counsel. Seconded by Mr. Foxwell and unanimously carried.

When the Board reconvened, Chairperson McCulley explained that there would be no decision tonight, but the Board would issue a formal decision in 45 days.

A motion was made by Mr. Howard to approve the minutes of the September 22, 2011 meeting. Seconded by Mr. Foxwell and unanimously carried.

A motion was made by Mr. Howard to approve the 2012 schedule for the Board. Seconded by Mr. Foxwell and unanimously carried.

With no further business, a motion was made by Mr. Howard to adjourn. Seconded by Mr. Foxwell and unanimously carried. Time of adjournment: 9:55 PM.

Respectfully submitted,

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

Steve Dodd
Executive Secretary