

The Dorchester County Board of Appeals met in regular session on Thursday, September 20, 2018 in Room 110 of the County Office Building at 7:00 PM. Present were, Catherine McCulley, Chair, Elizabeth Hill, Vice Chair, Lin Spicer, Mike Starling, Walt Gunby, Attorney, and Steve Dodd, Director. Absent: Cindy Smith

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 #2633 – Kenneth & Lisa Hurlock, applicants

To request a special exception to construct a 1,200 sq. ft. accessory structure which, in combination with existing accessory structures, exceeds the footprint of the principal structure. There is an existing accessory structure measuring 2,200 sq. ft. on the same lot, which was approved by variance granted in 2000. The principle structure, located on the adjoining lot contains 1,808 sq. ft. Also to request a special exception to operate a home-based contractors business out of the existing 2,400 sq. ft. building, with one non-resident employee. Applicant is also requesting to amend the stipulations for BOA Case #1966 to remove the condition of “no solicitation of business on premises”. Property located at 5531 LeCompte Rd., Rhodesdale, MD 21659 containing 3.85 acres. Zoned AC, Agricultural Conservation.

Kenneth & Lisa Hurlock, 5533 LeCompte Rd., Rhodesdale, MD, and any other person who would be testifying in this case, were sworn in.

Ms. McCulley asked Mr. Dodd to read the first case. Mr. Dodd reviewed the Staff Report noting an issue that needs to be addressed at this hearing; the two lots will need to be consolidated or the owners will need to execute a Covenant Not to Separate Lot agreement. The primary dwelling is on one lot and the accessory structure is on the other lot which is not permitted under the zoning code. Mr. Dodd also advised he had researched the covenants for the Autumn Grove subdivision and did not find any restrictions that would prohibit the use of the property as requested.

Ms. McCulley advised the applicant of his two options, to rely on his written responses to the criteria or comment on the responses. Mr. Hurlock advised he would rely on his written responses.

Mr. Hurlock submitted into evidence, eight signatures from surrounding neighbors stating they have no problem with the request. Mr. Gunby advised Mr. Hurlock that the Board is unable to accept this as the by-laws exclude petitions or lists such as this. Individual letters are acceptable.

Ms. McCulley asked Mr. Hurlock if he would be agreeable to either remove the property line between the two lots or execute a Covenant Not to Separate Lot agreement. Mr. Hurlock stated he would have no problem with signing the agreement.

Ms. McCulley noted that Mr. Hurlock stated in his answers to the criteria questions that the new accessory structure would be used for the storage of personal

vehicles. Mr. Hurlock stated this was correct. He advised he stores the three Snap-On trucks in the existing accessory structure.

Mr. Starling asked why Mr. Hurlock was requesting the “no solicitation of business on the property” be removed. Mr. Dodd advised that his understanding was that the decision made concerning Mr. Hurlock’s Board of Appeals case #1966, was based on the accessory structure being used for residential purposes, not business use. Mr. Dodd stated that the business use of the existing accessory structure fits into a home-based occupation zoning category that is acceptable.

Ms. McCulley asked if they would need to address the standards for a home-based occupation such as parking, hours of operation and number of employees. Mr. Dodd advised these should all be included as part of the findings or condition of approval.

Ms. Hill asked if there are specific hours the trucks leave and return. Mr. Hurlock advised they leave around 7:30 am and are back around 6:00 pm. Mr. Starling asked if Mr. Hurlock would be agreeable to business hours of Monday through Friday, 7:00 am – 7:00 pm. Mr. Hurlock was agreeable with this. Mr. Dodd advised that the business may have two non-resident, non-family employees. Mr. Hurlock was agreeable to this. There was discussion on addressing the number of permitted employee trips to and from the site per day. Mr. Hurlock agreed to a total of ten ingresses/egresses per day. Mr. Dodd advised that it is up to the Board to make a decision on how many commercial vehicles may be parked on the property at one time. Mr. Hurlock advised he has seven vehicles titled to the business now. Mr. Hurlock was agreeable to a maximum of 12 commercial vehicles.

Mr. Dodd read agency comments into record. Based on the information provided, the Planning Commission suggests the Board of Appeals have the applicant either remove the property line between 5533 and 5531 LeCompte Rd. or execute a Covenant Not to Separate Lot agreement. They also suggest the applicant not be allowed to operate a business from the new 1,200 sq. ft. accessory structure. The Department of Public Works stated that the project is less than 5,000 sq. ft. of disturbance therefore, stormwater management is not required. No comments were received from the Health Department.

Ms. McCulley asked Mr. Hurlock if he would be agreeable to not use the new building for business. Mr. Hurlock was agreeable.

Mr. Hurlock asked whether the lots, once joined by the Covenant Not to Separate Lots agreement could be separated in the future. Mr. Dodd advised that if a primary residence is built on the lot now containing the accessory structures, Mr. Hurlock could petition to have the covenant removed as the reason for the covenant would no longer exist.

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 both special exceptions with the following stipulations for the home based business, (1) no more than 2 nonresident employees (2) hours of operation Monday through Friday, 7 am – 7 pm (3) a maximum of 12 commercial vehicles (4) 10 employee trips to and from daily (5) removal of condition from BOA case #1966 is approved; for the new accessory structure, (1) cannot use the new building for business (2) must execute a Covenant Not to Separate Lot agreement before building permit is issued.” Mr. Spicer seconded, and the motion unanimously carried.

Mr. Gunby advised that in order to remove the stipulation from the 2000 Board of Appeals case #1966, the sentence “No solicitation of business on premises” should be removed. Ms. McCulley asked for a second. Ms. Hill seconded and the motion unanimously carried.

Case #2458A – Commissioners of Secretary

To request a new special exception and variance in place of a previously expired special exception and variance approved by the Board of Appeals on July 24, 2014 for “Town of Secretary”. Original request was for a special exception to replace a wastewater treatment plant and a variance to place a structure 50 ft. from the property line. Variance requested: 450 ft. Property located at 3723 Green Point Rd., Secretary, MD 21664 containing 11 acres. Zoned RR, Rural Residential.

David Schlott, Jr., Project Manager, ARRO Consulting, 1101 Opal Court, Hagerstown, MD, Susan Dukes, Secretary Town Council, Melissa Dennis, Mayor of Secretary, and any other person who would be testifying in this case, were sworn in.

Ms. McCulley asked Mr. Dodd to read the first case. Mr. Dodd noted this request is essentially the same as the case from July 24, 2014. He advised a special exception and variance were granted at that time. Variances do not expire, so there is no need to request it again. If a special exception is not started within 2 years from the time it is granted, it expires. Mr. Dodd reviewed the Staff Report, noting a correction to it. The new waste water treatment plant will not increase the sewage capacity, it will remain at 281,000 gallons per day.

Mr. Schlott compared the proposed treatment plant with the existing system. The existing plant is not an efficient nutrient reduction system. The new plant will have an ENR (enhanced nutrient reduction) system that will meet the requirements that go into effect June, 2020. He also reviewed the components of the new system.

Mr. Schlott spoke about the reasons it has taken so long to get this far with the process, noting the project will cost approximately \$13 million and will be partially funded by MDE. The Town of Secretary will also look into funding through private sources and USDA.

Ms. Hill asked how many employees work at the existing system and how many will be needed for the new system. Mr. Schlott advised there is now one operator, a helper may be added when the new system is in operation.

Mr. Dodd advised that the Health Department and the Planning Commission were agreeable to this request.

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

Mr. Starling asked if administratively, there was an easier way to adopt and incorporate what has been presented at this hearing, since basically the Board is renewing what was granted previously. Mr. Dodd advised the Board can adopt the original special exception findings from 2014 as their own.

Ms. McCulley called for a motion regarding this case. Mr. Starling made a motion "to adopt the findings as presented by the applicant, the Town of Secretary, for the special exception criteria." Mr. Spicer seconded, and the motion unanimously carried.

A motion was made by Mr. Starling to approve the minutes of August 23, 2018. Seconded by Ms. Hill and unanimously carried.

With no further business, a motion was made by Mr. Spicer to adjourn. Seconded by Ms. Hill and unanimously carried. Time of adjournment: 8:20 PM.

Respectfully submitted,



Steve Dodd
Executive Secretary