

MINUTES

The Kent County Planning Commission met in regular session on Thursday, September 5, 2013, in the County Commissioners' Hearing Room at 400 High Street, Chestertown, Maryland, with the following members in attendance: Elizabeth Morris, Chairman; Bill Sutton, Vice Chairman; Randy Bellows; Ed Birkmire; Bill Crowding; and Joe Hickman. Staff in attendance was: Amy Moredock, Director of Planning, Housing, and Zoning; Carla Gerber, Community Planner; Bill Kerbin, Housing Planner; G. Mitchell Mowell, Planning Commission Attorney; and Jennifer Butz, Secretary.

Ms. Morris called the meeting to order at 1:30 p.m.

Ms. Morris announced the public hearing for the Kent County Hazard Mitigation Plan Update has been postponed.

MINUTES

The minutes of the August 1, 2013 meeting were approved as presented.

APPLICATION(S) FOR REVIEW:

#13-52 and 53 – Steven D. Green – Special Exception (Cottage Industry and Accessory Building over 1,200 sq. ft.) and Site Plan Review – Steven Green is requesting two special exceptions in order to operate his septic business, Green's Septic and Excavation, LLC, on his property and also to construct a 900 square foot addition to an existing 1,215 square foot pole building thereby creating a 2,115 square foot accessory building to store equipment and continue to operate his business onsite.

Present and duly sworn was Steven D. Green and Bill Kerbin.

Mr. Kerbin gave an overview of the application and reviewed the staff report noting the Applicable Laws of the Kent County Land Use Ordinance to include Article XI, Section 2.70 which defines a cottage industry, and Article VII, Sections 7.1 and 7.15 which authorize Kent County Board of Appeals to grant special exceptions for accessory buildings over 1,200 square feet on parcels less than 5 acres and cottage industries in the Critical Area Residential District respectively provided the application complies with the standards. Also, Article VII, Section 2 which establishes that no special exception shall be authorized unless the Board finds that the establishment, maintenance or operation of the special exception meets the standards set forth in this Article.

Mr. Green's application also requires a site plan review in which Article VI, Section 5, of the Kent County Land Use Ordinance outlines the procedures and requirements for that review.

Mr. Kerbin stated there have been no correspondence or complaints received regarding this application.

Discussion ensued between the planning commission members and the applicant regarding the limitation of outdoor storage space and how that space is calculated, clear delineation of the commercial and residential entrances, landscaping, the number of vehicles on the property, and the number of employees Mr. Green plans to have.

A motion was made by Mr. Hickman for a favorable recommendation to the Board of Appeals for a cottage industry with the following findings and conditions:

- The business is secondary to the use of the property for living purposes and does not exceed 60% of the living area. The 60% limitation includes outdoor storage, and this outdoor storage shall not exceed 560 square feet and will be clearly indicated on an approved site plan.
- The storage of materials on this area will be limited to sand, stone, and piping, all pertaining to septic installation and maintenance services.
- Onsite business parking is restricted to 1 commercial vehicle and must not include pump out vehicles or honey wagons, such vehicles will be stored within the accessory building.
- While the buildings associated with the use are not visually intrusive or inappropriate to their setting, landscaping of the front yard with a clearly-delineated point of business access must be indicated on an approved site plan.
- The cottage industry does not create an unacceptable environmental impact by way of noise, odor, noxious materials or other nuisances.
- The cottage industry does not generate excessive traffic to the surrounding area.
- The business currently has 1 employee (the owner), and the number of employees will remain the same.
- The business does not have onsite sales; therefore, the business does not generate traffic for retail purposes, and clients do not visit the site.
- Hours of operation are limited to 8:00 a.m. to 5:00 p.m.; however, the nature of the business may necessitate emergency services outside of the prescribed hours of operation.
- The Comprehensive Plan encourages cottage industries. The nature and scope of the proposed business fits in the proposed site.
- The proposed business should not have a negative impact on the surrounding area.

The motion was seconded by Mr. Birkmire and approved unanimously.

A motion was made by Mr. Hickman for a favorable recommendation to the Board of Appeals for an accessory building over 1,200 square foot for the cottage industry for septic installation and maintenance with the following findings and conditions:

- The proposal includes a 900 square foot addition to an existing 1,215 square foot pole building thereby creating a 2,115 square foot building constructed to store equipment and continue to operate his business onsite.
- The site is located at the end of a dead end street and is surrounded by developed and undeveloped parcels.
- The proposed building will not have an impact on historic landmarks or houses of worship including the Mount Pisgah Church and the Buck Neck historic site.
- The proposed building will not have an impact on water quality as the proposed 900 square foot addition is being constructed over existing impervious area.

- The proposed building and the uses therein will not create excessive noise or toxic materials.
- The proposed building addition reflects the style of the existing building and will not negatively impact property values.
- The proposed addition to the existing building will total and is limited to 2,115 square feet.
- The building will not negatively impact fish and wildlife
- The use is consistent with the Critical Area Program and Comprehensive Plan strategy to support small, locally-owned businesses.

The motion was seconded by Mr. Sutton and approved unanimously.

The next order of business was the site plan. It was decided that the Commission would offer conceptual comments. The Commission made the following comments relative to the conceptual site plan review and special exception standards for the operation of a cottage industry onsite:

- The proposal is consistent with the Comprehensive Plan strategies to support cottage industries and small, locally-owned businesses. The proposed addition to the existing pole building will be a part of an expansion of an existing business.
- Business and living areas need to be specifically delineated on the site plan. Applicant needs to consider that the primary purpose of site is for residential use and that the septic business must remain incidental to residence.
- The applicant must submit a landscaping plan for the front yard that provides for additional screening of the business and designates an entrance for business use which is separate from residential use.
- Additional buffering needs to be provided to further screen the outdoor storage area in order to reflect the surrounding character of the neighborhood.
- The definition of cottage industry directs that there should be little or no outdoor storage. In order to comply with the spirit of the Ordinance, the area of outdoor storage must be limited to 560 square feet for the area of use to meet the 60% limit of cottage industry use based on the area of dwelling living space. The applicant must show dimensions of the outdoor storage area on the site plan.
- Parking is limited to 1 commercial vehicle and this vehicle cannot be the honey wagon or pump out vehicle.

#13-49 and 50 – Casey & Kathleen Hurd – Special Exception (Cottage Industry and Accessory Building over 1,200 sq. ft.) and Site Plan Review -- Casey and Kathleen Hurd are requesting two special exceptions in order to operate a landscaping business, Greenscapes Land Care, LLC, on their property and also to make conforming a structure which exceeds the 1,200 square foot accessory building limit for a parcel less than 5 acres.

Present and duly sworn was Casey and Kathleen Hurd, and Amy Moredock.

Ms. Moredock gave an overview of the application and reviewed the staff report noting the Applicable Laws of the Kent County Land Use Ordinance to include Article XI, Sections 7.1 and 7.15 which authorize Kent County Board of Appeals to grant special exceptions for accessory

buildings over 1,200 square feet on parcels less than 5 acres and cottage industries in the Agricultural Zoning District respectively provided the application complies with the standards. Also, Article VII, Section 2 which establishes that no special exception shall be authorized unless the Board finds that the establishment, maintenance or operation of the special exception meets the standards set forth in this Article.

Mr. and Mrs. Hurd's application also requires a site plan review in which Article VI, Section 5, of the Kent County Land Use Ordinance outlines the procedures and requirements for that review.

Mr. William Short, Kent County Commissioner, residing at Eagles Nest Farm, was sworn in and spoke in favor of the special exception request for a cottage industry stating Mr. and Mrs. Hurd have made considerable improvements on the property.

Discussion ensued between the planning commission members and the applicant regarding the limitation of outdoor storage space, clear delineation of the commercial and residential entrances, existing and proposed landscaping, the number of vehicles on the property, and the number of employees Mr. Hurd plans to have.

A motion was made by Mr. Hickman for a favorable recommendation to the Board of Appeals for a cottage industry with the following findings and conditions:

- The business is secondary to the use of the property for living purposes and does not exceed 60% of the living area. The area of use totals 2,880 square feet and will occur predominantly in an existing 2,400 square foot building and on an existing 400 square foot concrete pad. This area is incidental to the new single family dwelling (55%).
- Onsite business parking is restricted to 1 commercial vehicle associated with the business and will be parked adjacent to the accessory building as indicated on the approved site plan.
- The building is appropriate to its setting and is not visually intrusive. In addition to existing screening onsite, the applicant has planted over 70 Leyland cypress trees to offer further screening and proposes to extend an existing line of trees to the north east and to install a landscaping bed within the front yard as indicated on the approved site plan.
- No harmful noises, odors, or otherwise noxious materials should occur onsite as a result of this cottage industry.
- No sales are proposed to occur from the site; therefore, there should not be an unreasonable increase in traffic to the site.
- The cottage industry does not create an unacceptable environmental impact by way of noise, odor, noxious materials or other nuisances.
- The cottage industry does not generate excessive traffic to the surrounding area.
- The business currently has 5 employees (including the owner) with employee parking indicated on the approved site plan adjacent to the existing accessory building.
- The business will operate between the hours of 7 a.m. and 8 p.m. during the months of April through June and 7 a.m. and 5 p.m. during the months of July through March.
- The Comprehensive Plan encourages cottage industries. The nature and scope of the proposed business fits in the proposed site.
- The proposed business should not have a negative impact on the surrounding area.

The motion was seconded by Mr. Birkmire and approved unanimously.

A motion was made by Mr. Hickman for a favorable recommendation to the Board of Appeals for an accessory building over 1,200 square feet on property less than 5 acres with the following findings and conditions:

- The 2,400 square foot accessory building was constructed under a 2012 building permit on the farm prior to the 4-acre 2013 subdivision.
- Access to the site is existing.
- The neighborhood is characterized by residential development along Blackmon Lane and Dutchtown Road and sparse residential development along Rosedale Cannery Road. Otherwise, the neighborhood is dominated by agricultural land with the village of Still Pond located approximately a half of a mile south of the site.
- The accessory building is located approximately 3,000 feet from inventoried historic structures located in Still Pond and approximately 3,200 and 4,000 feet from two houses of worship also located in Still Pond.
- The building and its use are appropriate to the site and will not negatively impact the environment, farming operations, neighboring properties, or historic structures.
- The building and its use will not create an unusual amount of traffic or other impact on infrastructure.
- The building and its use are not located within the Critical Area.
- The building and its use are consistent with the Comprehensive Plan strategies to promote locally-owned businesses and cottage industries.

The motion was seconded by Mr. Crowding and approved unanimously.

The preliminary and final site plan was reviewed in great detail by the Planning Commission. A motion was made by Mr. Hickman to grant preliminary and final site plan approval having made the following findings relative to both site plan requirements and special exception standards for the operation of a cottage industry onsite:

- The proposal is consistent with the Comprehensive Plan strategies to support cottage industries and small, locally-owned businesses.
- The residential and business portions of the property are seemingly separate; both will access an existing entrance and driveway. The business driveway branches off of the main drive to the southern portion of the parcel while the driveway will continue to the north of the parcel to access the dwelling. Landscaping (both existing and proposed) clearly delineates areas of use.
- The proposal offers parking for employees and landscaping trucks adjacent to the existing building.
- Continued operation of the landscape business should not create an unusual amount of traffic or other impacts on infrastructure. The business only has five employees, and clients will not visit the site.
- The lot is served by existing private well and septic. The proposal does not include any earth disturbance or direct impacts to groundwater.
- The proposal should not result in excessive noise, smoke, or odor and will not include hazardous materials.

- The applicant will install minimum exterior lighting for safety purposes. The lighting will be dark-sky compatible and will be turned off after business hours. No signage is proposed.
- An area of outdoor storage of 400 square feet for the storage of mulch has been identified on the site plan and is appropriate.
- The proposal does not include the removal of any vegetation.
- In addition to existing screening onsite located directly south of the building, the applicant has planted over 70 Leyland cypress trees to offer further screening of the business area and proposes to extend an existing line of trees and to install a landscaping bed within the front yard.
- The proposal has been integrated into the existing landscape. The site is predominantly screened by not only an existing hedgerow, but also by the natural slope of the land making the visibility of the building from the south and west difficult. The north side of the lot is screened by a neighboring tree line with the closest adjacent property owners to the north located approximately 1,000 feet from the site.
- The pole building meets the setback requirements for AZD and reflects the character of the neighborhood.

The motion was seconded by Mr. Crowding and approved unanimously.

GENERAL DISCUSSION

Ms. Morris opened general discussion regarding hand delivery or emailing of the Planning Commission packets. Discussion ensued with a few members still requesting hand delivered packets. The decision was made to continue hand delivering the Planning Commission packets.

STAFF REPORTS

Carla Gerber: Nothing to report.

Bill Kerbin: Nothing to report.

Mitch Mowell: Nothing to report.

Amy Moredock: Reported on the administrative hearings that have taken place in the past couple of months, stating two special exceptions have been approved for large accessory buildings and there is one administrative hearing scheduled September 12, 2013, for another accessory building. Ms. Moredock stated that these administrative hearings are very common. The next item to report was an update on the 2010 Trust Fund Grant for Middle Chester River. This was a 3 year grant that is closing this fall. The grant included the implementation of agricultural and residential non point source best management practices.

Ms. Moredock stated the Kent County TMDL Committee met with the Maryland Department of Environment and the meeting went well. The county was asked to submit a progress report on implementation of programmatic milestones for the 2012-2013 period. The County has submitted the report, meeting more of the milestones than anticipated.

The Eastern Shore Land Conservancy Annual Conference is scheduled for October 3, 2013, and the agenda consists of climate change and environmental trends. Lastly, Ms. Moredock stated the County Commissioners met and approved the microbrewery zoning text amendment which should go into affect within the next couple of weeks.

Ms. Morris addressed the vacancy of Mr. Jay Lancaster, who now resides in Queen Anne's County. There was some discussion on recommendations for a replacement.

There being no further business for the good of the organization, the meeting was adjourned at 3:20 p.m.

Elizabeth H. Morris, Chairman

Jennifer M. Butz, Clerk