

MINUTES

The Kent County Planning Commission met in regular session on Thursday, July 11, 2019, in the County Commissioners' Hearing Room at 400 High Street, Chestertown, Maryland, with the following members in attendance: Elizabeth Morris, Chairman; William Sutton, Vice Chairman; James Saunders; Kim Kohl; William Crowding; and Commissioner, P. Thomas Mason. Staff in attendance were: Stephanie Jones, Acting-Director of Planning, Housing, and Zoning, and Environmental Planner; Robert Tracey, Community Planner; Carla Gerber, GIS Specialist; G. Mitchell Mowell, Planning Commission Attorney; and Tonya Thomas, Secretary.

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

MINUTES

The minutes of June 6, 2019, meeting, were approved as presented.

APPLICATIONS FOR REVIEW:

19-24 Joseph and Noreen Davis - Mr. and Mrs. Davis request a variance from the 100-foot Stream Protection Corridor (SPC) to construct a 1,705 square foot accessory building with a 660 square foot concrete pad, which includes a 208 square foot covered porch, that will be partially located within the SPC. The proposed building will be built predominately in the footprint of an existing 1,142.78 square foot garage, and most of the concrete pad will be placed over existing stone. The new building will be larger, with an additional 428.98 square-feet of building area within the SPC. The total area within the SPC will be 1,451 square feet of building and 342 square feet of open concrete. Approximately 254 square feet of the building, which includes 132.16 square feet of new building area, will be located outside the SPC, along with the 208 square foot covered porch and 126 square-feet of open concrete.

The property is located at 11385 Station Road, in the Second Election District and is zoned Rural Residential (RR).

Present and duly sworn in were; Joseph and Noreen Davis, applicants; and Mr. Tracey, Community Planner.

Mr. Tracey gave an overview, including a description and history of the application and cited all applicable laws of the *Kent County Land Use Ordinance* as follows: Article V, Section 4.5 which requires the minimum yard setbacks; Section 4.7.B.7 which requires that all development or redevelopment shall provide a 100-foot naturally vegetated stream protection corridor along all tributary streams; and Article IX, Section 2.2 which authorizes the Board of Appeals to grant variances from the setback requirements.

Mr. Tracey read into the record an email from Mr. Coakley from the Department of Natural Resources, Fishing and Boating Services requests that all reasonable sediment and erosion control Best Management Practices be required and utilized to prevent transport into the lake from the project.

Ms. Davis gave an overview of the property and their intentions of keeping the mature trees. Ms. Davis mentioned that locating the building outside the SPC would require the removal of approximately 30 trees as well as stump removal and grading of the property. The Davis' believe keeping the trees and the location of the building would reduce the impact on water quality of the lake and the environment.

After some discussion and consideration of the testimony and all applicable laws, Mr. Crowding made a motion to send a favorable recommendation to the Board of Appeals for a variance from the 100-foot Stream Protection Corridor based on the following findings of fact:

- Granting of the variance will neither cause a substantial detriment to adjacent or neighboring properties, nor change the character of the neighborhood or zoning district.
- Accessory structures are very common in the vicinity.
- The variance is consistent with the Comprehensive Plan and the general intent of this Ordinance.
- The practical difficulty or other injustice is caused by the configuration of the largely wooded nature of the property, and if the structure was constructed outside of the SPC it would require tree removal and soil disturbance.
- The practical difficulty is caused by the condition of the property and not caused by the applicants' own actions. The existing accessory structure was built when the house was constructed in 1984, prior to the Stream Protection Corridor regulations, and is currently in poor condition.
- No trees are proposed to be removed and the new accessory structure will continue to be screened from adjacent property owners.
- The Planning Commission finds that this is a reasonable use of the parcel.
- Reduction of the Stream Protection Corridor will not impede the water quality of Urieville Community Lake.
- Applicant must direct all storm water from downspouts into rain barrels, drywells or other means of stormwater treatment.

Ms. Kohl seconded the motion, and the motion passed unanimously.

19-27 Lester C. Jones & Sons, Inc. - Mr. Sean Jones of Lester C. Jones & Sons, Inc., is requesting a variance of the setback variance requirements to enable construction of a manure storage building on his 280.31-acre farm located on Speer Road in the First Election District. The 60' x 200' building with a concrete apron will be 68' from a side property line (railroad) and 430' from the front property line. It will be used for the storage of manure prior to application on the adjacent fields according to an approved nutrient management plan. The farm is zoned Agricultural Zoning District (AZD), and the only improvements are the irrigation system. A lot for the existing dwelling and two additional lots were subdivided from the farmland by a previous owner, however, the Jones family owns all lots.

Citing a conflict due to business association with the applicant, Ms. Jones recused herself from the deliberations on this application. Ms. Jones left the dais.

Present and duly sworn in were; Sean Jones, applicant; and Ms. Gerber, GIS -Specialist.

Ms. Gerber gave an overview, including a description and history of the application and cited all applicable laws of the *Kent County Land Use Ordinance* as follows: Article V, Section 1.4.A.10.5 which requires a 600-foot setback from all property lines for waste management structures; and Article IX, Section 2.2 which authorizes the Board of Appeals to grant variances of the yard requirements so as to relieve practical difficulties or other injustices arising out of the strict application of the provisions of this Ordinance.

Ms. Gerber stated there was no correspondence.

Mr. Jones stated in addition to the proposed property location of the manure building, Lester C. Jones and Sons, Inc. has a 3300 dairy cow farm to the north of this parcel. The proposed parcel is used in part of the farms' nutrient management plan. Due to the nutrient management plan regulations changing, the farm is required to separate the manure solids from the liquids in an effort to separate the nitrogen from the phosphorus. The phosphorus needs to be removed from the dairy site and stored for timely application on adjacent farm property. The proposed location of the manure storage building and an additional 160-acre farm will be serviced by the manure that will be stored on this site.

After some discussion and consideration of the testimony and all applicable laws, Mr. Crowding made a motion to send a favorable recommendation to the Board of Appeals for a 170-foot front yard variance and a 532-foot side yard variance from the required 600-foot setback requirements for waste management structures in order to construct a 60-foot by 200-foot building with concrete apron based on the following findings of fact:

- Granting a variance will not cause a substantial detriment to neighboring properties nor will it change the character of the neighborhood and district.
- The Comprehensive Plan promotes the use of agricultural best management practices, and the proposal is consistent with the Land Use Ordinance.
- The practical difficulty was not caused by the applicant's own actions and is due to the location of the irrigation system and railroad.

Ms. Kohl seconded the motion, and the motion passed unanimously.

19-28 County Commissioners of Kent County (Worton Maintenance Facility) are requesting site plan review to redevelop 10932 Worton Road, known as the Worton Maintenance Facility. The County Commissioners are requesting combined concept review and preliminary site plan approval to construct two new 60-foot by 100-foot buildings to include a maintenance building and storage building. The County Commissioners would like to continue to request final site plan approval for Phase I of this project to include construction of the proposed maintenance building.

Present and duly sworn in were; Jim Wright, Kent County Engineer; Kevin Shearon, DMS & Associates, representing the County; and Ms. Jones, Acting Director and Environmental Planner.

Ms. Jones gave an overview, including a description of the application and cited all applicable laws of the *Kent County Land Use Ordinance* as follows: Article V, Section 7.2.13 permits public uses, buildings, and utilities; Section 7.5 establishes the density, height, width, bulk, and fence requirements for the Village District; Section 7.6 establishes the Village District general standards; Section 7.7 establishes the Village Environmental Standards, which includes the forest conservation and stormwater management standards specifically Section 7.7B.2.d states that "required afforestation or reforestation may be accomplished off-site"; Section 7.8 establishes the Village District general and specific design standards Article VI, Section 8 sets forth the provisions for Forest Conservation and; Article VI, Section 9 establishes the sediment and erosion control standards;; Article VI, Section 1.3 establishes the parking standards; and Article VI, Section 5 establishes the procedures and requirements for site plan review.

Mr. Shearon stated Phase I will consist of the removal of the Roller Rink and construction of a 6,000 square foot replacement building. Phase II will consist of an additional 6,000 square foot building for additional storage and will be proposed when the County Commissioners grant funding. Mr. Shearon stated there was an oversight regarding the calculations and asked the Planning Commission to waive the required 15% landscaping requirement, otherwise, the applicant will plant another tree.

Testimony was offered by: Don Stevens, adjacent property owner. Mr. Stevens stated he was not opposed to the new construction and agrees that the old roller-skating rink needs to be torn down. Mr. Stevens expressed concerns about the lack of maintenance at the location regarding rodents, trash, junk vehicles and the maintenance of the recycling bins. Mr. Stevens stated he can sit in his yard and see rabbits and possums and there used to be an infestation of bats over the years and wanted to know if the County has had pest

control at the site to make sure if there are rodents or animals at the location they are taken care of before the building is torn down.

Mr. Wright stated he was unaware of any rodents underneath the existing structure and will have a pest company take a look at the site before demolition. Over the years there have been bats and they were removed.

Mr. Stevens also stated the entrance culvert pipes to the public facilities along the road need to be replaced. The culvert pipes are either too small in diameter or the ends have been smashed by vehicles.

After much discussion and consideration of the testimony and all applicable laws, Mr. Crowding made a motion to grant combined concept review and preliminary site plan approval for the entire scope of the project. Furthermore, the Planning Commission voted unanimously to grant final approval of Phase I of this project including the construction of the proposed maintenance building. The signature of the final site plan is contingent upon recording the Forest Conservation Declaration. The Planning Commission cited the following findings of fact:

- The proposal is consistent with many strategies and goals of the Comprehensive Plan.
- The State Highway Administration has no comments regarding this site plan.
- The existing recycling receptacles will remain at the site. They will be relocated to an appropriate area to insure safe vehicular and pedestrian access by the public. The off-street parking provided meets the requirements and is located near the existing or proposed buildings.
- The applicant has provided loading and unloading space near the existing building and proposed parking.
- Dark sky compatible lighting is proposed to be wall mounted.
- Water and sewer lines are proposed to service the new maintenance building. No lines are proposed for the storage building.
- Stormwater management and sediment control plans have been approved by the Soil and Water Conservation District. No sureties are required.
- Forest Conservation has been addressed through off-site deed restriction of an existing forest area at Worton Park. The Forest Conservation Declaration must be approved and signed by the Planning Commission Attorney and recorded prior to signing of the final site plan.
- The Health Department has approved this application.
- The applicant has provided a landscaping plan and no vegetation is proposed to be removed.
- The applicant has agreed to include 1 or more shrubs to reach the required 15% landscaping.
- No new or additional signage is proposed at this time.
- The applicant's Citizen Participation Plan consisted of 7 letters being mailed to surrounding property owners on June 26, 2019. There has been no correspondence.

Ms. Kohl seconded the motion, and the motion passed unanimously.

Staff Reports

Stephanie Jones:

- A waterfront minor subdivision along Venaringham Lane was approved.
- OneEnergy Bluestar/SolSystems building permit was approved as of May 31, 2019. The Dual Oblige agreement and decommissioning plan was approved by the County Commissioners on May 28th in

which the Dual Obligee Rider agreement was signed. The amended final site plan was approved by all parties.

- At this time the approved final site plan for Brickyard Land Holdings, LLC to construct a 17,371 square foot addition to an existing precast production building has not been signed. The Planning and Zoning Office is still waiting for the recorded Forest Conservation Declaration.
- Ms. Jones conducted a hearing and granted an administrative special exception for an accessory structure in the front yard of a waterfront parcel along Cliff City Road.
- The Bay Bridge Monitoring Committee has not met the last 2 months due to the fact that no new information has been provided.
- Pending Zoning Text Amendments include
 - CHR Bill No. 3-2019 – Animal shelter use: Remanded, letter/recommendation including Industrial sent to CCs April 25, 2019, from PC
 - ✓ PC conveyed letter of recommendation to CCs at its April 30 meeting
 - ✓ 1st reading/introduction: July 2, 2019
 - ✓ 2nd reading/public hearing: August 6, 2019
 - ✓ 3rd reading/vote: August 20, 2019
 - CHR Bill No. 4-2019 – Sediment control mandated updates
 - ✓ 1st reading/introduction: July 16, 2019
 - ✓ 2nd reading/public hearing: August 20, 2019
 - ✓ 3rd reading/vote: September 3, 2019
 - CHR Bill No. 5-2019 – Increase in the size limit put on structures for buying, processing, and sale of farm products:
 - ✓ PC conveyed letter of recommendation to CCs in January 2019
 - ✓ 1st reading/introduction: July 16, 2019
 - ✓ 2nd reading/public hearing: August 20, 2019
 - ✓ 3rd reading/vote: September 3, 2019
- The Annual Critical Area Fee in Lieu reports have been submitted to the Critical Area Commission. The County does not usually intake much fee in lieu only because planting is the first preference. Fee in lieu is only excepted if the applicant does not have an area to plant.
- Upcoming Applications for Planning Commission
 - Ms. Jones and Mr. Tracey met with Enrique Pallares to discuss his application for a special exception and site plan review for an adaptive reuse of a historic structure on his property at 8355 Broad Neck Road. Mr. Pallares proposes to operate Casa Carmen, an artisanal winery tasting room, out of the Almshouse. Mr. Pallares had previously gone through the special exception and site plan review process about a year ago, but the Board of Appeals denied his application at the time. He does not plan to change his prior application.
- Board of Appeals
 - A complaint was received about Alexander's Sporting Farm located on Alexander Road, Massey. The continued use of a rifle and pistol range on this parcel requires a Special Exception review by the Board of Appeals. The current decision expired June 30th. An application was submitted prior to June 30th for the renewal of the Board of Appeals special exception decision. The application has been submitted and has been placed on the August

- Board of Appeals agenda. It is not required to be reviewed by the Planning Commission.
- o Kent Sand & Gravel Company, LLC, has requested an amendment to the conditions of approval in Renewal Case No. 14-48 approved in 2014. The applicant requests that Conditions 1, 2, 9 and 14 of the special exception approval be removed to comply with the Court of Special Appeals decision in *East Star, LLC v. County Commissioners of Queen Anne's County*, 203 Md. App. 477 (2012). The East Star case removes the requirements of the 5-year special exception renewal requirement and phasing and sequencing required by the State Surface Mining Permit. For example, the County cannot require reclamation before moving on to another cell if the State Permit does not require. All other special exception standards are within the County's zoning prerogatives.

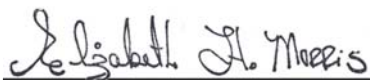
Robert Tracey:

- On June 19th Mr. Tracey along with Carla Gerber, Sam Leaverton, and Bryan Foreman conducted annual MALFP Inspections.
- The Ag Preservation Board met on July 9th, 2019, to review the FY2020 Easement Rankings and to review 2 applications for ag preservation districts.
- Attended the June 18th County Commissioners meeting to present six applications to be considered for agricultural land preservation districts and to present the annual report.
- Drafted letter and memo regarding the MDOT SHA Bicycle Support and Maintenance letter.

General Discussion:

Ms. Morris stated the Planning, Housing, and Zoning staff have really been pulling together and working hard.

There being no further business for the good of the organization, the meeting was adjourned at 3:17p.m.



Elizabeth Morris, Chairman



Tonya L. Thomas, Clerk