

MINUTES

The Kent County Planning Commission met in regular session on Thursday, June 6, 2013, in the County Commissioners Hearing Room at 400 High Street, Chestertown, Maryland, with the following members in attendance: Bill Sutton, Vice Chairman; Randy Bellows; Ed Birkmire; Bill Crowding; Joe Hickman; and Jay Lancaster. Staff in attendance was: Amy Moredock, Director of Planning, Housing, and Zoning; Carla Gerber, Community Planning; Bill Kerbin, Housing Planner; G. Mitchell Mowell, Planning Commission Attorney; and Kim Dixon, Secretary. Sandy Adams also attended the meeting.

Mr. Sutton called the meeting to order at 1:30 p.m.

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The minutes of the May 2, 2013, meeting were approved as presented.

Willard Agri-Service – Special Exception – Small Solar Energy System – Advanced Solar Technologies, on behalf of Willard Agri-Services, is requesting a special exception to install a small solar energy system on its property located in Lynch. The proposed system has been designed to generate a percentage of, but not all of, the electricity needed to operate the portion of the facility which is located in the portion of the parcel which is zoned Village. The solar panels will cover approximately 0.43 acres and will be enclosed by a security fence. The panels will not exceed 12 feet in height. The proposed system has been located in the portion of the parcel zoned Agricultural Zoning District, approximately 880 feet from Maryland Route 561, and behind the buildings affiliated with Willard Agri-Services.

The approximately 49-acre property is located at 11523 Lynch Road in the Third Election District and is zoned Village and Agricultural Zoning District. The neighborhood is characterized by residential and commercial development; the village of Lynch is framed by agricultural production. The closest dwelling is located approximately 950 feet from the proposed solar energy system.

Present and duly sworn was Ted Middleton of Advanced Solar Technologies and Amy Moredock, Director of Planning, Housing and Zoning.

Correspondence was received from Ms. Ruehrmund of Chester River Health Foundation. She applauds the applicant for this project.

Ms. Moredock reviewed the staff report noting the Applicable Laws of the Kent County Land Use Ordinance to include Article VII, Section 57.25 which permits solar energy systems, small, on farms in AZD and RCD; Article VII, Section 2 states 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.

Staff recommends approval.

Mr. Middleton testified the project will be located on the back side of the property, in the North West corner. The panels will be located in a small swale that will provide a natural shield. The project will not be visible from the road. The project will provide 60 to 70 percent of the electricity used on site. The panels will be twelve feet or less in height.

There was no audience comment regarding this project.

After some discussion, Mr. Hickman made a motion to send a favorable recommendation the Board of Appeals finding:

- The property is zoned Agricultural Zoning District.
- There will be no change to traffic patterns in the area.
- There are no dwellings, churches, schools, public structures, or other places of public gathering within close proximity to this site.
- There will be no negative impact on public services.
- There will be no negative impact on cultural and historic landmarks.
- There are no landmarks, significant natural features or trees that will be impacted by this project.
- There will be no probable effect of noise, vibration, smoke, and particulate matter, toxic matter, odor, fire or explosion hazards, or glare upon surrounding properties.
- The project is consistent with the purpose and intent of the Ordinance as set forth in Article II.
- The project complies with the design, environmental and other standards of the Ordinance as set forth in Article V.
- It is the most appropriate use of land and structure.
- The project will conserve property values.
- The proposed project will not impact water quality or fish, wildlife or plant habitat.
- The project is consistent with the Comprehensive Plan.
- Due to the location and surrounding landscape, making this property unique, there is no need for landscaping for this project.

The motion was seconded and approved unanimously.

Doug Shelly – Buffer Variance – Replacement Single Family Dwelling – Mr. Shelly is requesting a buffer variance in order to construct a replacement single family dwelling with attached garage and driveway within the Critical Area Buffer. The existing dwelling, decking, stone garden, and detached garage are currently located within the expanded buffer. All of these structures are proposed to be removed and the driveway reduced in size and reconfigured. The replacement dwelling with attached garage is proposed to be located in the same footprint as the existing dwelling in order to minimize impact. The entire scope of the buffer variance request involves the removal of the exiting structures totaling approximately 9,200 square feet and the construction of a replacement dwelling with attached garage and driveway totaling approximately 4,800 square feet. A net reduction of approximately 4,800 square feet of lot coverage is proposed.

The 2.25-acre property, located on Tockwogh Lane north of the Town of Galena in the First Election District, is zoned Critical Area Residential "CAR". The property is a wooded, waterfront parcel characterized by steep slopes and, as such, the expanded buffer comprises most of the property. The available open area located outside of the buffer has been designated as a septic disposal area. The replacement septic system is the subject of an administrative buffer variance. The surrounding area is zoned CAR and Resource Conservation District and is characterized by homes on relatively-large parcels and agricultural land.

Staff recommends approval of the buffer variance for the removal of the existing structures totaling approximately 9,200 square feet and the construction of a replacement dwelling with attached garage and driveway totaling approximately 4,800 square feet. Staff further recommends buffer mitigation at a rate of 3:1 in the form of native Maryland tree and understory plantings for any vegetation removal associated with the redevelopment of the site.

Present and duly sworn was Patrick Jones, representing the applicant, and Bill Kerbin, Housing Planner.

There was no correspondence received in this matter. The Critical Area Commission has been notified of this application, but has not made comments.

The Administrative Buffer Variance has been approved.

Mr. Kerbin reviewed the staff report noting the Applicable Laws of the Kent County Land Use Ordinance to include Article V, Section 5.5 which sets forth the minimum yard requirements; Article V, Section 5.7.B 3a which addresses development in the buffer; Article XI, Section 2 which establishes the definition of Buffer; Article IX, Section 2.2 which authorizes the Board of Appeals to grant variances.

Mr. Jones testified that he was present on behalf of the applicants. He stated there is currently a two-story dwelling with a walk out basement on the property. He said he has received approval from the Kent County Health Department to construct up to a 3,000 square foot dwelling with a holding tank.

There were no comments from the audience.

After some discussion, Mr. Hickman made a motion to send a favorable recommendation to the Board of Appeals finding:

- The location of the septic system limits the available location for a dwelling.
- The granting of the variance will be in harmony with the general spirit and intent of the Critical Area Law and regulations adopted by Kent County.
- The granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat.
- The application for a variance has been made in writing and a copy has been sent to the Critical Area Commission.
- The strict application of the Ordinance would produce an unwarranted hardship.

- Such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- The authorization of such variance will not be a substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance.
- A literal interpretation of the Ordinance deprives the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of Kent County.
- Granting of the variance will not confer upon an applicant any special privilege that would be denied by the Ordinance to other lands or structures.
- Due to the topography and the location of the septic system, a literal enforcement of the Ordinance would result in unwarranted hardship to the applicant.
- Without the variance, the applicant would be deprived of a use of land or a structure permitted to others in accordance with the provisions of the Critical Area Program.
- This is a waterfront property with steep slopes.
- The lot coverage will be reduced from 9,200 square feet to 4,800 square feet.

If the Board of Appeals approves the variance, the Planning Commission suggests the condition of mitigation of 3:1 in the form of Maryland native trees and understory for any vegetation removal within the buffer.

The motion was seconded and approved unanimously.

Oddmund Angell – Site Plan Review – Concept – Oddmund Angell is requesting concept site plan review for a proposed retail store on his 13.875-acre parcel located on Maryland Route 20 adjacent to the Rock Hall Volunteer Fire Company in the Fifth Election District near Rock Hall. The parcel is zoned “V” Village. The area is characterized by other retail and residential uses.

Mr. Angell is proposing a 2,400 square foot building that will be used primarily as an outdoor/garden center. Two three-sided lean-to structures will also be constructed for material storage, such as mulch and landscape stone. One will be located near the proposed retail store and the other will be located toward the rear of the parcel. A portion of the retail store will also contain an antiques store. There is an existing dwelling on the site that will remain.

Present and duly sworn was Oddmund Angell, Kevin Shearon, DMS and Associates, and Carla Gerber, Community Planner.

There was no correspondence received in this matter.

Mr. Shearon testified they are proposing a modest 60' x 40' building. The property is adjacent to the corporate limits of the Town of Rock Hall. Mr. Angell attempted to have the property annexed into the town, however it was too costly. They are requesting the buildings to store material because the County does not allow outside storage. They would like to phase this project and will submit it on separate applications. The first phase would be the front part of the property with the second phase being the back part of the property once any floodway and floodplain issues are addressed. Mr. Shearon submitted applicant's exhibit one, which is an aerial photo of the property.

Mr. Sutton asked for comments from the audience. Janice Plotczyk asked if the project is phased, will that mean the forest clearing will not happen now. Mr. Shearon said that is correct.

Mr. Sutton stated he is concerned about how they will keep everything high and dry.

Mr. Shearon testified the Citizen's Participation Meeting went well. He stated they mailed approximately 160 letters, and 10 people attended the meeting. Most of the people who attended the meeting wanted to know what they intend to do with the property, particularly the back portion.

STAFF REPORTS

Carla Gerber - Ms. Gerber informed the members that they will review the draft Hazard Mitigation Plan at their July meeting. She further informed them that it needs to be adopted by September.

Bill Kerbin – nothing to report.

Mitch Mowell – nothing to report

Amy Moredock – Ms. Moredock informed the members that she and Ms. Adams attended the 2010 Trust Fund Field Day on May 23, 2013. She said the grant is coming to an end after three years.

GENERAL DISCUSSION

Mr. Sutton, on behalf of the Planning Commission members, thanked Ms. Dixon for her service to the Planning Commission and presented her with a Certificate of Appreciation. The members expressed that Ms. Dixon would be missed and wished her well in her new position.

Mr. Crowding asked if the County Commissioners have acted on the bonds for the Village at Kennedyville. Ms. Moredock stated that the Commissioners are working with Wright Development to have the work completed.

There being no further business for the good of the organization, the meeting was adjourned at 2:50 p.m.

William Sutton, Vice Chairman

Kim Dixon, Clerk