

**MEETING MINUTES
BOARD OF ZONING APPEALS
FOR CAROLINE COUNTY, MARYLAND**

DATE: May 21, 2019

PLACE: Health & Public Services Building
403 S. 7th Street, 1st Floor, Room 110
Denton, Maryland 21629-1335

**BOARD MEMBERS
(PRESENT):** René Swafford, Chairman
Mary Leavell, Vice-Chair
Mike Mann, Member

ALSO, PRESENT: Bob Merriken, Attorney
Crystal Dadds, Assistant Director of Codes
Melanie Smith, Board Administrative Assistant

Chairman Swafford called the Caroline County Board of Zoning Appeals to order at 6:00 p.m. The Board members and staff were introduced to the audience and meeting procedures were explained.

PERIS VARIANCE #201900004

Chair Swafford read the Notice of Public Hearing into the record. Ms. Peris has requested permission to replace her existing dwelling which would be located closer to the front and rear property lines than the minimum required setback. The property is located at 15764 Meeks Road, Goldsboro, Maryland.

Ms. Dadds read the exhibits into the record:

- Exhibit 1 – Planning & Codes Staff Report
- Exhibit 2 – Variance Application
- Exhibit 3 – Real Property Data Sheet & Tax Map for M11-G1-P119
- Exhibit 4 – List of Notified Adjoining Property Owners
- Exhibit 5 – Health Department Water & Sewer Verification
- Exhibit 6 – Site Plan Prepared by Fink, Whitten & Associates
- Exhibit 7 – Photographs of the Property taken on 5/6/19
- Exhibit 8 – Notice of Public Hearing in the Times Record 5/8/19 and 5/15/19
- Exhibit 9 – Notice of Hearing to the Applicant

Chair Swafford swore-in:

Charity Peris, 15764 Meeks Rd., Goldsboro, MD 21636
Mike Palinski, 26256 Goldsboro Rd., Goldsboro, MD 21636

Ms. Peris received approval for this application in 2015. Town Sewer hookup was expected in the area at the time but was not completed until 2018. The Health Department only approved the public sewer hookup and not the interim holding tank they approved initially. Therefore, the Board of Zoning Appeals approval expired in 2016. Ms. Peris is now able to reapply with the required Water & Sewer Verification from the Department of Environmental Health.

Ms. Peris' home is located on an unusually long and narrow lot. Furthermore, the structure is only a few feet from the roads on the corner where it is located. The house was built in 1910 prior to the County establishing property line setbacks. The home's useful life has expired.

Strict application of the setbacks would prevent Ms. Peris from improving the lot with a typically sized modern home. She is requesting to build a home similar in size to the existing one. However, she has proposed to build the new structure in the center of the lot further away from both roads.

Photographs of the property showed the stop sign located within arm span to her home. Ms. Peris reported that a driver recently hit the stop sign and almost ran into her home. The corner is a busy intersection on a state highway in the Town of Goldsboro.

Her neighbor, Mr. Palinski, concurred with Ms. Peris' testimony and supported her request to rebuild. He testified that relocating the home would increase safety and visibility for Ms. Peris and local drivers and residents that may walk the neighborhood. The new home will be more aesthetic and likely increase neighboring property values. Mr. Palinski valued Ms. Peris as a neighbor and fully supported her request.

Ms. Peris closed by stating that she wanted to remain a citizen of Caroline County and would regret having to move if her application is denied.

Chair Swafford closed this portion of the meeting for deliberation.

Consulting Chapter 175:152 D the Board discussed their findings.

1. An application was submitted. (See exhibit 2)
2. The meeting was duly advertised May 8 and 15, 2019. (See exhibit 8)
3. A. The Board heard testimony that the request would be in harmony with the intent of the County zoning ordinance.

B. The available area to build on the lot was not a condition that arose from the action of the applicant. The home is on a nonconforming lot that predated zoning regulations.

C. This request does not occur so often as to make it necessary to amend the chapter of the code.

D. The applicant is asking for the minimum necessary to afford relief. Ms. Peris is not asking for a larger home. She is requesting to build a similarly sized home in a safer and deeper location on the property.

E. The property is not within the Critical Area.

Consulting Chapter 175:152 B the Board discussed their findings.

The Board of Zoning Appeals may grant an area variance only upon a finding that the strict application of such requirements would pose a practical difficulty to the owner of the property and the Board determined the following:

1. The lot was nonconforming when zoning laws came into existence. The lot is peculiarly long and narrow. The structure needs replacement and is located dangerously close to the intersecting roads.
2. The difficulty is not a result of any action of Ms. Peris' or previous owners but because of developing zoning laws.
3. The application was previously approved, and no adverse effects were found by the members of the Board in 2015 or now.
4. The granting of the Variance satisfies the general requirements set forth in the Caroline County Code.

Motion: Ms. Leavell made a motion to grant the application on the condition that a building permit and/or Zoning Certificate is attained prior to any proposed development and must be accompanied by all the necessary documentation and site plan requirements.

Second: Mr. Mann seconded the motion.

In Favor: The motion was approved unanimously (3-0).

ALLEN CHORMAN & SONS – SUE #201900005

Chair Swafford read the notice of public hearing into the record. Mr. Jeff Chorman has requested permission to build a grass airstrip for aircrafts conducting agricultural spraying operations. Said property is located on adjoining parcels at 14105 Clarks Lane and 14022 Oakland Road in Ridgely, Maryland. Both parcels are currently under a Maryland Agricultural Land Preservation Foundation (MALPF) Easement. An airstrip is an allowable use on MALPF properties under conditions set by the Maryland Department of Agriculture.

Ms. Swafford read and responded to Mr. Harper's Letter (Third Party Exhibit 1) requesting that she recuse herself from these proceedings. Mr. Harper is a neighbor to the property and suggested Ms. Swafford's involvement in the case was a conflict of interest.

Ms. Swafford stated that she has no financial interest or personal involvement in the case and is confident that she can conduct the hearing justly. She offered that if anyone finds this not to be so, they may appeal the decision made this evening to the Caroline County Circuit Court.

The audience was asked if anyone wanted to reply to what was heard.

Chair Swafford swore in:

Ross Harper, 14001 Clarks Lane, Ridgely, MD 21660.

Mr. Harper testified that a group that Ms. Swafford was representing had threatened the Town and businesses of Ridgely. He stated that she instigated a public demonstration and accused the Ridgely Chief of Police of misconduct. Ms. Swafford countered that she was not representing the person he believes she is representing. She assured him that she did not orchestrate a demonstration and that he would be hard pressed to defend his accusation that she or any of her clients had posed threats to anyone in Ridgely. She continued that she cannot control what other people do in her presence, particularly an independent organization that she has no authority over. She stated that he had greatly mischaracterized her attendance at a public forum.

Anne Ogletree, 118 Market St., Denton, MD
Douglas Carroll, 13884 Mason Branch Rd., Ridgely, MD 21660
Jeff Chorman, 30475 East Mill Run, Milton, DE 19968
Jeremy Kalmbacker, 738 E. Pebworth Rd., Magnolia, DE 19962

Ms. Ogletree introduced Jeff Chorman as a principal in the Allen Chorman & Sons business. She explained that the umbrella LLC for this business and several others is the Del Ag Aero, LLC. The Certificate of Corporation (Applicant's Exhibit 4) was submitted to the Board.

If approved they will complete the process of obtaining a business license in Maryland as well as Delaware. The business is centered in Delaware although they are responsible for a considerable amount of spraying in Caroline County.

The Chormans had leased to fly out of the Ridgely Airport since 2001. The airport was recently sold in foreclosure at which time the lease became void. Mr. Chorman has been unable to secure a feasible contract with the new owner. He confessed that he has not given up hope that they might work it out but had to keep his options open and available to keep his clients and staff secure.

Mr. Carroll, the landowner and client of Chormans, offered his land to Mr. Chorman to use as a landing strip. Such an agreement would benefit both Mr. Carroll and Chormans. Mr. Carroll will be required to be an active partner of the business by the Maryland Department of Agriculture. If the application is approved by the Board of Zoning Appeals their Delaware lawyers will begin the necessary paperwork. Ms. Ogletree added that zoning is only one of the permissions Chormans must obtain.

Ms. Dadds read the following exhibits into the record:

- Exhibit 1 – Planning & Codes Staff Report
- Exhibit 2 – SUE Application
- Exhibit 3 – Real Property Data Sheet & Tax M13 G16 P12 and M13 G15 P11
- Exhibit 4 – MDA Email Re: MALPF Easement
- Exhibit 5 – Water & Sewer Verification
- Exhibit 6 – Site Plan by Three Chord, CEM, LLC
- Exhibit 7 – Photographs of Property

Exhibit 8 – List of Notified Adjoining Property Owners
Exhibit 9 - Notice of Public Hearing Published in the Time Record on May 8 and May 15
Exhibit 10 – Notice of Hearing to Applicant
Exhibit 11 – MDA Email Re: PDA Setbacks
Exhibit 12 – MALPF Program Admin Letter to MDA Re: Ag Advisory Board Approval

Third Party Exhibit 1 – Ross Harper Letter
Third Party Exhibit 2 – Jarrel’s Notes
Third Party Exhibit 3 – Aerial of Property

Ms. Ogletree submitted five applicant exhibits that were marked as:

Applicant’s Exhibit 1 – MDOT Approval
Applicant’s Exhibit 2 – Benedictine Support Letter
Applicant’s Exhibit 3 – Evaluation of Effect on Property Values by Tidewater Properties
Applicant’s Exhibit 4 – Certificate of Corporation
Applicant’s Exhibit 5 – Citizen Letters of Support

Mr. Chorman explained that their busy seasons are the first of May to mid-May for the wheat harvest. Two to three weeks in July and approximately 4-6 weeks in the fall. They only fly during the day and therefore lighting is not needed. They will fly out of Greenwood, Delaware to the site each morning as needed. The staging area will allow fuel and material trucks to service the planes for the days work. Only two or three trucks are anticipated to be needed each day.

Mr. Carroll and Mr. Chorman agreed to propose a strip that will be 2700’ long and 100’ wide. This is wider than the strip at the Ridgely Airport because both business men agreed it provided a safer margin for landing. Mr. Chorman provided the Maryland Aviation Administration (MAA) approval (Applicant’s Exhibit 1). He testified that he also received an email from the Federal Aviation Administration (FAA), but he did not include the email in his package.

Mr. Chorman used the site plan (Exhibit 6) to show the anticipated flight path that would be used to avoid air traffic with the Ridgely Airport and flying over neighboring properties as much as possible. The direction of take off will depend on the wind direction. Mr. Chorman explained that take-offs are louder because of the energy needed to lift the plane. Landing is simply gliding the plane to a stop, therefore, much quieter.

Mr. Chorman testified that he desires to be a good neighbor and encouraged anyone to call him should they have problems with his pilots/flights.

Regarding the environment, Mr. Chorman testified that no more dust will be created than already occurs when a tractor sprays a field; and, will last a shorter period of time in comparison. There is no glare caused by the planes. He referred to (Exhibit 5), approval from the Environmental Health Department and pointed out there are bathrooms available at the farmhouse. Once the landing strip is no longer used, the land may be immediately tilled and used for crops.

(Applicant’s Exhibit 3) revealed no effects were found to neighboring land values by the Tidewater Properties Evaluation. There are no health hazard concerns and the project will not impede the peaceful use and enjoyment of other property owners as evidenced by the numerous other airstrips

in the vicinity. The nearest property to the airstrip is located 800' from the strip. They are 2200' from the Benedictine Property who approved of the project (Applicants Exhibit 5).

Rain will prevent them from using a turf runway. This is a challenge they will have to overcome after using the asphalt runway at Ridgely Airport. He stated that he mostly sprays seed and fungicide in the Ridgely area. Herbicide is sprayed from his helicopter, which will not be used at this facility.

Ms. Ogletree asked the landowner, Mr. Carroll if he supported the project. He stated that he did and is pleased with the agreement they have made. He is aware there will be some truck traffic on his lane but is confident that the operation will in no way impede his work in the field.

Mr. Mann asked if Mr. Chorman explored other farms in the area for his runway. Mr. Chorman approached Mr. Carmean and Mark Clopper, who were not interested at this point of time. Mr. Chorman was further encouraged by the ease to which the project developed with Mr. Carroll.

Mr. Kalmbacher, Engineer for Three Chord C.E.M., drafted the site plan. He testified that they still needed Caroline County Planning Commission review for the final site plan. They will ensure the project does not interfere with storm drainage.

In support of the application, Chair Swafford swore in:

Kevin Barnes, 12935 Ridgely Rd., Greensboro, MD
Robert Chapel, 13849 Mason Branch Rd., Ridgely, MD 21660
Nash Carroll, 13966 Oakland Rd., Ridgely, MD 21660

Mr. Barnes, who is a pilot that also flies out of Ridgely Airport, has known Mr. Chorman since 2007. He maintained that Mr. Chorman already sprays Mr. Carroll's fields and neighbors will experience no difference than when Mr. Chorman flies from the Ridgely Airport. He pointed out that the strip is only two miles from the Ridgely strip.

Mr. Chapel also knew Mr. Chorman from the Ridgely Airport. He assured the Board that his pilots are very professional and responsible. He questioned Mr. Chorman about right handed patterns to avoid Ridgely flights, at what height he would enter the pattern and how much the aircrafts weighed loaded and unloaded. He approved of the answers Mr. Chorman provided believing that after takeoff, the height at which they will be flying, should not be bothersome to neighbors. Mr. Chapel added that their planes are kept very clean and he could vouch that Mr. Chorman had a good relationship with the previous owners of the Ridgely Airport.

Mr. Chapel later responded to a concern that the pilots being trained at the Ridgely Airport may become confused and present a safety issue. He assured the audience that pilots are accompanied by an instructor until the pilot is prepared to go solo.

Mr. Nash Carroll testified in support of the application. He indicated that the grass airstrip would ease air traffic at the Ridgely Airport, thereby making it safer for pilots being trained at the site. He added that Mr. Chorman is doing what he has always been doing and will only be continuing as he was. If not him then someone else. If the fields are not sprayed by aircraft than the neighbors

will have to suffer the sounds of the tractors and manure for much longer than it takes the plane to accomplish the same task.

In opposition to the application or had questions for the applicant, Chair Swafford sworn in:

Ross Harper, 14001 Clarks Lane, Ridgely, MD 21660
Dana Jarrell, 14591 Fox Chase Circle, Ridgely, MD 21660
John Gooden, 3532 Turkey Point Road, Viola, DE 19979
Mike Jarrell, 14591 Fox Chase Circle, Ridgely, MD 21660
Jim & Sue Coleman, 14521 Cherry Lane, Ridgely, MD 21660
James Holder, 14517 Cherry Lane, Ridgely, MD 21660
Lisa Ritter, 23266 Sparks Rd., Ridgely, MD 21660

The Board granted Ms. Ogletree's client to respond to each testimony before the neighbor returns to their seat.

Mr. Harper testified that, in his opinion, it is unsafe to have Mr. Chroman's strip only two miles from Ridgely Airport. Mr. Harper pointed to his property on the site plan, located south west of the proposed airstrip. He challenged that the quiet enjoyment of his property will be affected by the noise of the airplanes.

Mr. Chorman responded that he must receive approval from the Maryland Aviation Administration (MAA) and the Federal Aviation Administration (FAA) that the operation is safe and satisfies all of their requirements. They will be flying on a different frequency than the Ridgely Airport to prevent interference.

Ms. Jarrell, who resides in the Fox Chase subdivision north of the proposed site, questioned Mr. Chorman about the business. She was upset that a business, rather than a County land owner, is proposing the operation. She asked that the Board forbid the pilots to fly over her subdivision. She also requested that the Board limit his daily flights to 20 a day. She suggested they postpone their decision until the site plan had been approved.

Ms. Jarrell submitted seven pages of information and it was marked as 3rd Party Exhibit 2. She also submitted an aerial of the area, which was marked as 3rd Party Exhibit 3.

Mr. Chorman reminded her that Mr. Carroll is a land owner in Caroline County and must have interest in the company as a condition of approval. He countered to the Board that Ms. Jarrell's request to forbid they fly over her subdivision was unreasonable.

Mr. Gooden, owner of the Ridgely Airport, stated that he is afraid of low flying planes colliding as a result of having two airports that close together. He also maintained that a commercial strip should be required for a commercial use.

Mr. Chorman responded that his use is considered an Agricultural Use which is approved by MALPF. He repeated his testimony to Mr. Harper regarding safety requirements.

Mr. Jarrell was concerned about the increased truck traffic on Clark's Lane. He stated that the neighborhood has had to suffer the odor and traffic of the Chicken Manure Processing Plant that the State approved without citizen input. He argued that the Board should not allow the additional 2-3 trucks that the airstrip will incur.

Mr. Jarrell warned that if the proposed airstrip was built, the property would need to be reassessed for tax purposes given the commercial use of the property. He, in fact, will make an appeal to the Tax Assessment Agency because Mr. Gooden is paying \$20,000 per year in taxes.

Chair Swafford explained that taxes are not a condition of approval.

Ms. Ogletree explained that the property is under an Agricultural Use Easement. The Caroline County Agricultural Preservation Advisory Board voted unanimously to recommend the application to the Maryland Department of Agriculture on May 8, 2019. Ms. Ogletree referenced Caroline County Zoning Ordinance, Chapter 149 "Right to Farm Law", which, Ms. Dadds summarized for the audience. The Right to Farm Law was enacted in 1997 and thereon purchasers of real property were thereafter notified of the law during the settlement process.

Mr. & Mrs. Coleman asked if they ever had a spill. Mr. Chorman testified that they have never experienced a spill, however, the Washington EPA requires they have a spill kit stored at one of their sites. Their kit is stored at the Greenwood, Delaware property. He invited the public to visit his operations at the Greenwood facility. He also explained that he used "Warrior" insecticides, but that work is done with his helicopter and would not take off from the Ridgely site.

Mrs. Coleman wanted the record to show that the "staging area" did not include "storage" as one of the documents showed. No storage at the site is proposed or permitted. The Colemans asked what happens if Mr. Chorman does not abide by the conditions.

Ms. Ogletree advised that if a complaint is posed it is investigated by the Caroline County Codes Enforcement Officer.

Mr. Holder asked how many planes would be on the ground at any given time and how long an average job would take. He was concerned about increased traffic on Clarks Lane.

Mr. Chorman stated that there would generally be two airplanes on site at a time. His jobs average about an hour. He is usually done for the day before noon. Mr. Chorman repeated that he was open to a condition that the trucks not travel on Clark and Sparks Roads.

Ms. Ritter had questions pertaining to the flight records. Mr. Chorman testified that they maintain a "Trend Sheet" that keeps track of flights. She also asked how the planes might affect her horses. Mr. Chorman stated that he shares his Milford strip with horses and donkeys.

Chair Swafford assured that everyone had spoken before inviting Ms. Ogletree to close her testimony.

Ms. Ogletree heard testimony that the State and Federal Aviation Administrations reviewed the application and found no dangers or concerns with the proposed airstrip or air space. The chemicals

Mr. Chorman uses are highly regulated and he testified that they are administered with his helicopter from the Greenwood location.

She understood that everyone that testified has to process the request. In Caroline County Mr. Chorman and Mr. Carroll are protected by the Right to Farm Chapter of the Code. Mr. Carroll's property is only two miles from the airport he traditionally used. Therefore, any disturbance will be minimal.

Mr. Chorman and several others pointed out that he is not proposing to change the type of work that he does. If not approved, the work will continue to be done as in the past except they will be taking off from his Delaware location. If approved, he will be able to provide the same work without increasing the cost to local farmers. The consequence of not being approved will affect the farmer. The cost to do the business will be significantly higher to cover the increased flight time and fuel.

Lastly, Ms. Ogletree stated, in response to the testimony, her client suggests the Board include the following conditions if approved:

- There will be no storage of material at the site;
- Their trucks will only access the site from Oakland Road;
- Air flights will be limited to 20 per day.

Ms. Jarrell and Mr. Harper closed on behalf of the opposition. Ms. Jarrell stated that she would like to see far fewer flights than 20 per day. She would like everyone to be notified of any developments as they occur. And lastly, she views this operation as a commercial business and is concerned at the impact it will have on local businesses.

Mr. Harper was disappointed that Mr. Gooden and Mr. Chorman were unable to come to an agreement at the detriment of the neighbors.

When closing statements concluded the meeting was closed for deliberation.

DELIBERATION

The Board referred to Chapter 175, Article 16, Section 142A for the conditions of a Special Use Exception.

1. An application was received (Exhibit 2).
2. The hearing was duly advertised on May 8, 2019 and again on May 15, 2019. (Exhibit 9).
3. (a) The application would not endanger the public health, safety or general welfare as was confirmed by the reviews of the Maryland and Federal Aviation Administrations. There will be no chemical storage at the site. And Mr. Chorman provided approval from the Maryland Department of Agriculture and the Department of Environmental Health.

(Exhibits 4 & 5 and Applicant's Exhibit 1) The testimony given in opposition to the application was not substantial in comparison.

(b) The Board weighed the opposing testimony with the applicant's rights as written in Chapter 149 of the County Code "The Right to Farm". They also took into consideration that the work he intended to do is no different and will be no different than the work he has always done in Caroline County. The only change is that he will be taking off still within Ridgely and on a farm he already services. The client provided an independent study that supported that the project would not impair neighboring property values. The testimony that neighbors would be affected was not substantial in comparison.

(c) The Board heard testimony that the 2-3 trucks per day that will be used in season would be injurious to the normal and orderly development to the neighbors on Clark Road. The applicant resolved this by agreeing to make it a condition of approval that the trucks only access the site from Oakland Road which is a state highway.

(d) There was no testimony that the operation might overburden existing public facilities, including schools, police and fire protection, water and sewerage, public roads, storm drainage and other public improvements.

(e) The applicant's request conforms in all other respects to the Zoning Chapter.

(f) The Property is not within the Critical Area; therefore, the Critical Area Commission was not petitioned.

Motion: Mr. Mann made a motion to approve the application with the following conditions:
A site plan application is filed with the Planning and Codes Department;
A written letter of approval from the Maryland Agricultural Land Preservation Foundation (MALPF) is submitted before the issuance of a Building Permit and/or Zoning Certificate;
A Building Permit and/or Zoning Certificate is acquired prior to any proposed development and be accompanied by all the documentation and site plan requirements.
Trucks will only access the site from Oakland Road;
There will be no overnight storage of chemicals at the site;
There will be no more than 20 flights on a given day.

Second: Ms. Leavell seconded the motion.

In Favor: The motion was approved unanimously (3-0).

REVIEW AND APPROVAL OF MINUTES AND DECISIONS

The members read the minutes of the April 16, 2019 Board of Zoning Appeals meeting. No corrections or additions were needed.

Motion: Ms. Leavell made a motion to approve the minutes as written.

Second: Mr. Mann seconded the motion.

In Favor: The motion was approved unanimously (3-0).

The members read the Harper decision for Variance application #201900002 and approved by signature.

ADJOURNMENT

Motion: Ms. Leavell made a motion to adjourn the meeting at 9:15 p.m.
Second: Mr. Mann seconded the motion.
In Favor: The motion was approved unanimously (3-0).

The meeting was adjourned at 9:15 p.m.

BOARD OF ZONING APPEALS

René Swafford, Chairman



Minutes prepared by: Melanie Smith