

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

DATE: April 20, 2021

PLACE: Virtual Meeting on Microsoft Teams

**BOARD MEMBERS
(PRESENT):** Michael Mann, Chairman
Karen Hardy, Vice-Chair
Benjamin Butler, Member

ALSO, PRESENT: Katheleen Freeman, Director of Planning & Codes
Robert Merriken, Board Attorney
Melanie Smith, Board's Administrative Assistant

Chairman Mann called the Caroline County Board of Zoning Appeals meeting to order at 6 PM. Chairman Mann introduced the Board members and staff and explained the duties that the Board is charged with.

**WOOD FARM, LLC DECISION REMANDED – SPECIAL USE
EXCEPTION 201700009**

Member Ben Butler recused himself from this portion of the meeting due to working during the day for Mr. & Mrs. Schuster.

Ms. Smith read the exhibits into the record:

Exhibit 1	Notice of Public Hearing Published in the Times Record on 4/7/21 & 4/14/21
Exhibit 2	Special Use Exception No. 201700009 Decision
Exhibit 3	Circuit Court Judicial Opinion Case No. C-05-CV-20-000004
Exhibit 4	Proposed Consolidated Conditions
Exhibit 5	List of Notified Adjoining Property Owners
Exhibit 6	Sign Posting Affidavit and Photo
Exhibit 7	Ad Verification

Mr. Merriken explained that Ms. Anne Ogletree, Esq. and Mr. Jake Worm, Esq. participated in creating and approving the list of consolidated conditions that will be added in the final Board decision. Ms. Ogletree agreed for the record.

Chairman Mann read the Notice of Public Hearing into the record:

Decision No. 201700009: A request by **Wood Farm, LLC** for a **Special Use Exception** in accordance with Chapter 175, Article XVI, §§175-27 and 175-13 (Attachment 3:3) of the Caroline County Zoning Ordinance to establish a sand, gravel and mineral extraction facility. Said property is located on the southeast side

of Log Cabin Road, southwest of Denton and is further described as Tax Map 27, Grid 9, Parcel 90 and Tax Map 27, Grid 3, Parcel 16.

The hearing is being held pursuant to an Opinion of the **Circuit Court for Caroline County, In the Matter of Lacey Lord, Case No. C-05-CV-20-000004**, remanding the matter back to the Board:

Solely for the Board to amend its written decision to include the agreed upon conditions listed in this opinion. No testimony will be heard, and no further evidence will be accepted.

Chairman Mann read Exhibit 4 the consolidated conditions into the record:

1. A Building Permit and/or Zoning certificate will be required prior to any proposed development and must be accompanied by all necessary documentation and site plan requirements to conform to all State and local laws.
2. The Applicant must obtain a final site plan approval from the Caroline County Planning Commission.
3. The Applicant must have the plat signed and recorded in the Land Records prior to applying for any Building Permit and/or Zoning Certificate, which includes a detailed exhibit of the grave locations.
4. The Applicant may only run his mining operation from 5:30 a.m. until the earlier of 5:30 p.m. or dusk, Monday through Friday, and from 6:30 a.m. until noon on Saturdays. The gates may be open at other times but no active mining operations or loading of trucks may take place before or after the stated hours of operation.
5. The Applicant shall be limited to the removal of one hundred (100) truckloads of material per day. The number of trucks shall not exceed 100 trucks per day.
6. The use of Jake brakes and/or exhaust brakes shall be prohibited on Log Cabin Road and in the facility by trucks entering, exiting, or utilizing the facility.
7. Trucks entering or exiting the facility shall be limited to operating on Log Cabin Road between Route 404 and Fleming Road. Trucks entering or exiting the facility shall not use Thawley Road and/or Tuckahoe Road as a through road to other areas. Trucks exiting the facility are not to turn left onto Log Cabin Road when leaving the facility except to go no further south on Log Cabin Road then Fleming Road. Any trucks exiting Wood Farm and using Fleming Road shall not use Tuckahoe Road.
8. The Applicant shall designate an employee that shall be readily available during the mining operation's regular operational hours to meet with and discuss with one individual designated by the nearby neighborhoods (the "Community Representative") to act as a liaison for the nearby neighborhoods regarding any complaints, problems, or concerns regarding the operations of the mining operation. The neighbors of Wood Farm are to

designate a neighborhood point person, the Community Representative, who will meet with the plant manager to discuss and attempt to resolve any community issues raised.

9. Once the mining operation is up and running, the Applicant shall be limited to fifteen (15) employees on site (excluding truck drivers and any of the driver's helpers).
10. The Applicant shall be limited to on site storage of Ten Thousand (10,000) gallons of diesel fuel. The diesel fuel tank shall be in a diked enclosure.
11. The centerline of the southerly berm of the proposed site shall be moved to 125 feet from the southern boundary line of the Applicant's property at the request of the adjacent landowner to the south and shall be depicted on the final site plan, so as to not shade the crops of Jim Saathoff, or his successors and assigns, to the south.
12. Trucks shall not slam their tailgates on the facility or on Log Cabin Road.
13. No dump truck is to leave the facility as long as there is a school bus in sight on Log Cabin Road.
14. Option B as depicted on Sheet C-101B (Board Exhibit 7 – Board Hearing of 11/13/18) is approved. The setback of 200 feet on the east side of the property adjoining the old golf course property also owned by Wood Farm will be reduced from 200 feet to 100 feet preserving the stream buffer of 100 feet for the perennial stream.
15. Wood Farm will enclose the relocated cemetery with a fence.

Chairman Mann asked if Ms. Hardy or Mr. Merriken had anything they cared to discuss before a motion is offered. Ms. Hardy stated that she has read all the synopsis of the case and was present at the last meeting, however, not in an official capacity. She remembered the Board agreeing on the same conditions; however, they were not included on the signed decisions. Therefore, she agrees with what Mr. Merriken has proposed. She was further assured by the agreement of each respective Attorney involved in the case. Chairman Mann agreed.

Ms. Ogletree stated that there were thirteen conditions that the neighbors and Mr. Schuster agreed to. The thirteen conditions were in the Boards verbal approval but some of them never made it into the written decision. Ms. Ogletree pointed out that Mr. Tyler Harper was present in the meeting. She informed the Board that Mr. Schuster and the neighbors have been communicating to make it better for everybody. At some point, when they have everything in order, they will be coming before the Board about a new proposal that will have to go through the system from top to bottom again. She believes it is a proposal that is so far agreeable to the neighbors and Mr. Harper concurred.

Motion: Chairman Mann made a motion to approve the final decision with the consolidated conditions as proposed.

Second: Ms. Hardy seconded the motion.

In Favor: The motion was unanimously approved (2-0).

MINUTES – FEBRUARY 16, 2021

The members reviewed the minutes of the February 16, 2021 Board Hearing.

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

Second: Mr. Butler seconded the motion.

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

LETTER – REQUEST FOR EXTENSION

Mr. Merriken explained that the Board received an application for a Special Use Exception Extension filed on behalf of Cherrywood Solar I, LLC on April 6, 2021. In light of the decision of the Maryland Court of Appeals in the Perennial Solar case, decided after the BZA granted a SUE for this project, the application is deemed unnecessary. The time parameters and conditions for projects of Public Convenience and Necessity issued by the Maryland Public Service Commission are no longer under the jurisdiction of the County Government. Therefore, he is asking the Board for their approval of the response letter Mr. Merriken had written to the Attorney representing Cherrywood Solar that will be included when the application is returned.

The Board approved of the letter and directed staff to proceed with the response.

AMENDMENT - BENEDICTINE DECISION – SUE NO. 20-0042

Chairman Mann explained that the decision initially signed by the Board for SUE No. 20-0042 did not include the Boards express approval to extend the decision for an additional year to April 13, 2023.

Motion: Chairman Mann made a motion to approve the Amendment to the Benedictine Decision to include the extension to April 13, 2023.

Second: Ms. Hardy seconded the motion.

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

AMENDMENT – KAYANI VARIANCE NO. 20-0046

Chairman Mann explained that it was brought to the Boards attention that the decision initially signed by the Board for Variance No. 20-0046 had a typographical error on the size of the replacement poultry house. The correct size should have been 46' X 386' as depicted on Board's Exhibit #6.

Motion: Ms. Hardy made a motion to approve the amendment to show the correct size of the replacement poultry house as 46' x 386'.

Second: Mr. Butler seconded the motion.

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

ADJOURNMENT

Chairman Mann adjourned the meeting at 6:32 PM.


Minutes prepared by Melanie Smith

