

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

DATE: August 18, 2020

PLACE: Virtual Meeting on Microsoft Teams

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

ALSO, PRESENT: Kathleen Freeman, Director of Planning & Codes
Crystal Dadds, Assistant Director of 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 6:04 PM. Chairman Mann introduced the Board members and staff that were present. He then explained the duties that the Board is charged with and how the meeting will proceed according to the Zoning Chapter of the Code of Public Law of Caroline County, Maryland. Ms. Dadds explained the Virtual Meeting Protocol and conducted an initial roll call of attendees.

Present in the audience were:

Randee Haggerty who was in opposition to the Bramble application;
Tom & Chris Murphy who were in opposition to the Bramble application;
Greg Esham the Mountaire applicant;
Bill Burton in opposition to the Bramble application;
Pat & Elon Block in opposition to the Bramble application;
Art Schlosser in opposition to the Bramble application;
Blair Carmean present for the Mountaire application;

Paul Bramble in support of the Bramble application;
Mitchell Mowell, Esq. representing Randee Haggerty in opposition to the Bramble application;
Kim Myers in opposition to the Bramble application;
Sam Gardiner in support of the Bramble application.

MOUNTAIRE FARMS – SPECIAL USE EXCEPTION & VARIANCE NO. 20-0021

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

Application No. 20-0021: A request by Mountaire Farms of Delaware Inc. for a Variance and Special Use Exception in accordance with Article 15, Article 16, Article 17 and Sections 175-34 and 175-137.C of the Caroline County Zoning Ordinance for a Variance to construct a 24' x 36' x

10' pole building for storage closer to the property line than the minimum required setbacks; and a Special Use Exception to erect the building upon a nonconforming agricultural products processing plant. Said property is located at 23501 Henry Rd, Ridgely, Maryland and is further described as Tax Map 22, Grid 10, Parcel 10.

Ms. Dadds read the exhibits into the record.

Exhibit 1	Notice of Public Hearing Published in the Times Record on 8/5/20 & 8/12/20
Exhibit 2	Staff Report
Exhibit 3	Special Use Exception Application
Exhibit 4	Variance Application
Exhibit 5	Site Plan
Exhibit 6	Tax Map & Real Property Data Sheet M22-G10-P10
Exhibit 7	Aerial Photograph with Features Overlay
Exhibit 8	List of Notified Adjoining Property Owners
Exhibit 9	Sign Posting Affidavit and Photos
Exhibit 10	Applicant's Notice

Chairman Mann swore in:

Greg Esham – Mountaire Farms – Project Engineer - PO Box 1320, Millsboro, DE 19966; and Blair Carmean – 22548 Fleming Rd Denton MD 21649.

Mr. Esham explained that they are asking to build a 24' x 36' pole shed to store tools and a skid loader on site. To date they have not had such a piece of equipment on the site. The building will be located in the center of the existing grain silos and out of view from the road. They have also applied for a variance to the 500' setback to allow them to build within 150' of the property lines.

Chairman Mann showed the site plan marked as Exhibit 5. The plan showed the building location surrounded by existing silos. It also showed that the building site is a distance from the tax ditch to the South of the property. Exhibit 9 showed photographs of the building site from various angles.

Ms. Leavell suggested the applicant respond to the conditions of approval. Mr. Esham stated that the construction is well off of the Highway and would not interfere with vehicle or pedestrian travel. The building would be secured with a lock. There are no homes close to the site and therefore the project would not interfere with the peaceful use or property values of the neighboring properties. Mr. Esham stated that the building is a distance away from other properties and would not impede approved development of neighboring properties. The building will not overburden public facilities or improvements. He added that storing the equipment in a locked building would increase the safety of the area. It will be used for storage only and no water or sewerage is required.

Mr. Esham explained that the conditions of the property is unique because it has two front property lines and is required to have a 500' setback as opposed to the normal 150' setback. The difficulty is not a result of the applicant or previous owner. It is because the facility has been in existence for over 50 years, prior to today's Zoning restrictions. The operation itself has never changed. Mr. Esham stated that there was no significant financial hardship involved. However, the building would protect and secure the tools and equipment used at the site.

Chairman Mann asked Mr. Carmean if he was ready to testify. Mr. Carmean explained that he was there to observe the hearing and that he had no issues with the Mountaire application.

No one else was present in favor or opposition to the application.

Chairman Mann closed this portion of the hearing to deliberate.

DELIBERATION

Chairman Mann noted that in accordance with Article 15 §175-137C of the County Zoning Ordinance, the Board of Zoning Appeals may grant a special use exception to erect additional buildings upon a lot occupied by a nonconforming use when such additional buildings are associated with such use. He referred to the staff report marked as Exhibit 2.

In accordance with Article 16 §175-142A of the County Zoning Ordinance, the Board of Zoning Appeals shall not grant a special use exception unless and until:

A written application for a Special Use Exception was submitted and marked as Exhibit 3. A duly advertised public hearing has been held and the Notice of Public Hearing is marked as Exhibit 1. The project will not be detrimental to or endanger the public health, safety or general welfare where it is located far from neighboring properties. Nor is it close enough to other properties to be injurious to the peaceful use and enjoyment of other property in the neighborhood and will not substantially diminish or impair property values in the neighborhood. Granting the application will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the (R) Rural zoning district. The building will not create more traffic flow. There is still grassy area on the site. If approved the building will decrease the burden of the police and fire departments by preventing vandalism and theft. The request conforms in all other respects to this chapter and is the minimum needed to resolve their problem. The project is not within the Critical Area.

Motion: Ms. Hardy made a motion to approve the SUE on the condition that the applicant must obtain a final Minor Site Plan Approval from the Planning Director and a Building Permit and/or Zoning Certificate is required prior to any proposed development and must be accompanied by all the necessary documentation and site plan requirements.

Second: Ms. Hardy seconded the motion.

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

Chairman Mann stated that this is certainly a unique circumstance not shared with any other property owner. The property has been in existence for over 50 years and the setbacks were not in effect at that time making this a peculiar situation. There is no severe financial hardship. This is the minimum the applicant could ask for to meet his needs. Most of §175-152 D was answered in the conditions of the SUE. However, the situation of the property concerned is not of so general or recurring a nature as to make practicable a general amendment to this chapter.

Motion: Ms. Leavell made a motion to approve the Variance on the condition that the applicant must obtain a final Minor Site Plan Approval from the Planning Director and a Building Permit and/or Zoning Certificate is required prior to any proposed development and must be accompanied by all the necessary documentation and site plan requirements.

Second: Ms. Hardy seconded the motion.

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

DAVID A. BRAMBLE, INC. – SPECIAL USE EXCEPTION NO. 20-0017

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

Application No. 20-0017: A request by **David A Bramble Inc and Stahl Point Holdings LLC** for a **Special Use Exception** in accordance with the Caroline County Zoning Ordinance Article 16, Section 175-26 and 175-27 for the Phase 3 expansion of an existing mineral extraction facility. Said property is located on the northwest side of Oakland Road, north of Ridgely, Maryland and is further described as Tax Map 9, Grid 16, Parcel 2; Tax Map 9, Grid 22, Parcel 86; and Tax Map 9, Grid 22, Parcel 107, Lot 2.

Ms. Dadds read the Exhibits into the record:

- 1 Notice of Public Hearing Published in Times Record on 8/5/20 & 8/12/20
- 2 Staff Report
- 3 SUE Application by Lane Engineering
- 4 Narrative by Lane Engineering
- 5 Professional Site Plan Prepared by Lane Engineering
- 6 Applicant's Site Photographs
- 7 Economic Study
- 8 Applicant's APO List
- 9 Water & Sewage Verification Application
- 10 Tax Map & Real Property Data Sheet M9-G16-P2 & M9-G22-P88 & P107-L2
- 11 Aerial Photograph with Features Overlay
- 12 Photographs of Property Taken on 7/30/2020 and 8/3/2020
- 13 Sign Posting Affidavit and Photos
- 14 List of Notified Adjoining Property Owners
- 15 Applicant's Notice

Mr. Merriken noted a typo on the Exhibit List header with the application number. The correct Special Use Exception should read No. 20-0017.

Chairman Mann asked for those presenting the case to state their names and addresses for the record and swore them in:

Ann Ogletree, Esq. – Attorney for the applicant, 118 Market St. #B, Denton, MD 21649;
Sean Callahan – Lane Engineering, 117 Bay St. Easton, MD, 21601;
Mike Davidson - 227 Old Town Rd, Goldsboro, MD 21636;
William Fitzhugh-Turner-Certified General Appraiser, 1102 Buttersworth Ct, Stevensville, MD;
Dani Walton - Lane Engineering, 117 Bay St. Easton, MD 21601; and

Paul Bramble – PO Box 419, Chestertown, MD 21620.

Ms. Ogletree gave the background of the Bramble site. She stated that the mine was started in 1990 by RWL Development to supply their own business of lot development. The original application was for 5 acres, then it was subsequently expanded to 10 acres, then an additional 30 acres. In 2018 they expanded an additional 17 acres bringing the total operation size to 57.5 acres. There exists a lot in the center of the operations owned by the Murphy's. This property is not included in the request, however, there is a 200' setback shown around the Murphy property. She asked to have Mr. Callahan explain the details of the project.

Mr. Callahan is the Project Manager for the project on behalf of Lane Engineering of which he is a partial owner. He has 25 years' experience in this occupation. He has physically visited the site and stated that there were wetland concerns that had to be addressed. He met with Maryland Department of the Environment and the Army Corp of Engineers on site earlier in the Spring to define regulated and non-regulated wetlands on the property. They received a Jurisdictional Determination which is an agreement with the Corp of Engineers agreeing with the limits of wetlands on the property. They proposed to mine through a tax ditch and there could be conflict or discussion as to whether a tax ditch is a wetland or not. The Army Corp of Engineers agreed that the portion of tax ditch they would be mining through is not considered regulated wetlands. This area is located on the East side of the project. However, there are confirmed wetlands on the West side of the project which will be avoided.

Mr. Callahan displayed the pages of the Site Plan and introduced each one starting with Exhibit 5-page 1 of 12.

Exhibit 5 Page 1 – This page will be submitted for the Sediment and Erosion Control review and the State Mining Permit review. These were also seen by the Caroline County Planning Commission. The Statement of Purpose and Intent at the bottom of the page states they are requesting a 38 Acre increase in the mining permit area.

Exhibit 5 Page 2 – A data sheet providing various details of the project.

Exhibit 5 Page 3 - A point by point response to the conditions of approval.

Exhibit 5 Page 4 - A legend sheet.

Exhibit 5 Page 5 – The existing conditions sheet showed the haul road entrance from Rt. 312 (Oakland Rd.) as it heads towards the scale house. He pointed out the 700' x 25' x 10' screening berm adjacent to the subdivision to the North. It shows the plant site and various stockpiles of material that are at the site now. The plan shows the Phase I 40-acre mining area, the Phase II 17.5-acre mining area and the proposed side slopes that are being built now that shape the land down to the pond surface.

He pointed out Parcel 86 and Parcel 107-Lot 2 to the west of the property which is proposed to be united with the larger parcel to be mined via a lot line revision. Parcel 107 is a Stahl Point parcel and Parcel 86 belongs to Bramble.

Exhibit 5 Page 6 – The proposed conditions sheet shows only a 101’ setback from the North end of the property along the haul road. They are requesting approval to reduce the required 200’ setback on this portion of the project in order to sufficiently access the minerals available on the property. State Law supports the efficient use of finite resources. The piece of land, if it were not mined, would also not be useful for farming; deeming that area as purposeless and wasted.

There was a proposed Forebay Pond to the Northwest of the Phase III area. There is also an isolated pond left over from a previous mining site from years ago on parcel 86.

Exhibit 5 Page 6 – A zoomed in view of the property.

Exhibit 5 Page 7 – A further zoomed in view of the property.

Exhibit 5 Page 8 – A zoomed in view of the property closest to Oakland Rd.

Exhibit 5 Page 9 – Section view of what the mining will look like.

Exhibit 5 Page 10 – Details of the Sediment Control Notes and Devices. The applicant responded to previous concerns about water quality by constructing a filtering device at the outfall. No chemicals are used to clarify the water, however, several filtering layers capture sediment that would otherwise escape the site.

Exhibit 5 Page 11 – Photo of the fencing that surrounds the property in the Cherry Lane area.

Mr. Callahan interrupted his explanation of Exhibit 5 to state that the State Highway Administration (SHA) letter from the December BZA Bramble SUE Application No. 201800017 hearing marked as Applicant’s Exhibit 1 should hold true for this application as well for approval of the project entrance at Oakland Rd. Ms. Ogletree stated that there was no change to access conditions nor truck routes and number of trucks entering the site per day.

Exhibit 5 Page 12 - 2016 Aerial showing the condition of the land and residential development at the time. He noted that there was an increase of residential homes built upon the perimeter of the project despite the protests that the mine negatively affects property values.

Ms. Walton began to explain photographs that were taken of the site. Ms. Smith interrupted to ask that the Boards Exhibit numbers be referenced for the purpose of producing clear minutes and the audience’s ability to follow the testimony.

Ms. Walton referred to the photographs as Board Exhibit 6. Page 1 of the exhibit showed the direction each photograph was taken at the site.

Exhibit 6 Page 2 & 6 – Looking into site from Oakland Rd. entrance.

Page 3-5– Shows the screening to the left of the entrance along Oakland Rd.

Page 7- Shows a utility gate with a “No Admittance” warning sign.

Page 8-10– The haul road.

Page 11, 12 – Berm and screening looking towards the Westbridge Subdivision.

Page 13 – Safety sign.

Page 14 – A photograph of the office.

Page 15 – A photograph of the scale.

Page 16-18 – Photographs of the pond in Phase I area.

Page 19, 21, 22 – Photo looking into the Phase III area to the Stahl Point property.

Page 20 – Photo of screening along Cherry Lane.

Pages 23-27 – Photographs of the tax ditches.

Page 28 – Photo of the Culvert.

Pages 29 & 30 – Photographs of drainage area contributing to the site for the Army Corp of Engineers.

Page 31 – Aerial view of the Tax Ditch plan.

Mr. Fitzhugh-Turner gave his qualifications. He is a Certified General Appraiser in the State of Maryland and an Accredited Green Appraiser for residential property. He is licensed to appraise any and all types of properties in Maryland. He received his Real Estate License in 1977 and started appraising property in 1985. He has appraised numerous MALPF easements and farms within Caroline County. He works in many of the Delmarva Counties. He has also testified as an expert witness in appraising property in Caroline County, Queen Anne County, Kent County, Dorchester County, and Talbot County.

Mr. Fitzhugh-Turner then explained his methodology for his Economic Study marked as Exhibit 7.

Referring to Exhibit 7 Page 5 of 38, Mr. Turner explained that the owner of 14982 Cherry Lane testified at the 2018 Bramble hearing that he was worried, due to the expansion, he would never sell his house. July 9, 2019, he listed the house for \$424,900 and sold it in 15 days for \$428,900.

Ms. Ogletree asked if the Board had any questions for Mr. Turner. Ms. Hardy noted that there may not have been a negative impact from the expansion at the time because the expansion did not take place next to this property but on the farther side of the project. She asked if he could testify that the property located directly next to the proposed expansion would not be affected.

Mr. Fitzhugh responded that his studies over the last 20 years would support that there would be no negative impact to properties adjoining the operation. He referred to the two houses located between the entrances of the very active Merrick Corner mine (Exhibit 7 beginning at page 6 of

38). They have never sought to screen the mine from their homes. Similarly, the houses along Cherry Lane have not attempted to block the noise of the Bramble mine.

Ms. Ogletree introduced Mr. Davidson next. Mr. Davidson is employed by Goldsboro Materials, the company that operates the Bramble mine. He has been in the mining business for 38 years. Equipment they use on site include front end loaders, a dredge, excavators, off highway trucks, yarder and the screening plant to sort the material. Except for the plant, everything is diesel powered. Mr. Davidson confirmed that $\frac{3}{4}$ of the equipment would typically operate at one time.

The operation is not only regulated by the County, but it is also regulated by the Mine Safety and Health Administration (MSHA). The MSHA Inspector walks around the site with a noise monitor and will also put a monitor on an individual running a piece of equipment for 6 hours and calculate their findings. He added that all of the equipment is cabbed and air conditioned. The last time this type of inspection was done was in 2019. This report was emailed to Ms. Dadds and they are asking the Board to accept this as part of the record.

The applicant is not proposing to use any new equipment. However, because of the abrasiveness of sand, the old equipment will sometimes require an auger or a screen deck to be replaced. No materials have or will be transported over Cherry Lane.

Doors open at 6 AM the trucks start loading and the plant does not start running until 7 AM. The plant shuts down at 5 PM and the men leave the site at around 5:30 PM. It takes approximately 20 minutes for the sand to run through the plant after it has been shut off.

They typically work 5 days a week, but if they have a break down, they may also work a half a day on Saturday. When they do work on a Saturday, they open at 6 AM, start loading trucks at 7 AM and shut down at 11:30 AM and leave at noon.

There is no lighting used on the site. When MSHA inspects the site, they check for dust control. The submitted report showed no violation.

At a prior hearing Mr. Davidson was concerned about trespassers. Ms. Ogletree asked what they have done since then to promote safety. Mr. Davidson explained that the Brambles home office is located in Chestertown. Before Mr. Davidson began operating the plant, four wheelers took advantage of the site on weekends. Mr. Davidson was concerned for the safety of the plant as well as the safety of the trespassers. As the local operator of the establishment he randomly stops in and will stop this offense. He has also erected a fence along Cherry Lane and Oakland Rd. 200 feet into the property. Since then they have had no issues.

Upon approval they will extend this fence along the property line of the Stahl property to the tax ditch. He will also ask the Ditch Association for permission to put up a gate to further deter four wheelers from riding up and down the ditch.

They will first seek approvals from the County. Next, they will seek approval from the State Surface Mining District. They will need to put up a bond for reclamation, seek a discharge permit, a water appropriation permit, and a sediment control permit. They are inspected by the Surface Mining District 4 – 8 times a year as well as report to MSHA monthly. They currently have 7-10 employees and will not increase that number. They have a water wagon to control the dust on the

road. The photograph in Exhibit 5, page 5 show that the entrance off of Rt 328 is blacktopped and topped with millings.

Mr. Davidson spoke to the neighbors who in turn shared their concerns about the application. He assured them that they will extend the fence around the Stahl Point and Bramble expansions. At a meeting with them he explained that the plant will not move from its present location only the equipment needed to mine the area. He also told them that it could be made a condition of approval that Phase III be completely mined within 24 months after all approvals are received, they would reclaim it and there will be no more activity there.

The machinery is 200 ft from the property line and may be somewhat louder. The neighbors asked for more buffer and he has agreed to plant more trees to thicken the screening. They will be using a portion of the Stahl property Parcel 107, Lot 1 to place the new fence. No one will be living on the site.

Two ponds to the north of the property are clarifying ponds rather than treatment ponds. They catch the runoff from the road and filter the sediment out before it flows into the larger pond. There are no chemicals used in the process.

Mr. Davidson has heard the stories about the trucks on the site. Their business is in desperate need of materials going where they are needed. They do their best to keep the trucks at bay. His safety supervisor has an application on his phone that measures the noise of the trucks. They send notices with their paychecks not to use the jake break and to always be courteous to the neighbors. If they slam the tailgate twice, they are banned from returning to the site. He has asked the neighbors to reach out to him if they are experiencing a problem and he will do everything in his power to follow these guidelines and all applicable laws.

Chairman Mann listed what he understood from Mr. Davidson's statements for clarification:

- Once everything is granted and they begin work on Phase III they will have the 8-acre parcel that includes the Stahl Point property mined and reclaimed within 24 months.
- They will be adding a few trees to increase the screening between that area and the neighbors to better buffer the noise.
- A fence will extend from the existing fence along Cherry Ln. around the pond to the tax ditch to the west of the property. The fence is a 4' high steel wire fence with 2 rows of barbed wire at the top.

Chairman Mann asked Mr. Davidson if this was suitable to keep small children from wondering onto the site; adding that he understands that not all accidents can be prevented. He agreed that this was a legitimate concern and he would never ever want to endanger someone else's child. They proposed a 6x6 steel wire fence that if someone were to attempt to climb it, would be hurt. He offered to make it a 4 x 4 steel wire fence for that portion of the facility; but noted that Caroline County regulations only require a 3.5' fence to enclose a pool.

- Mr. Mann asked about the access road from Cherry Lane that ran along the side of Parcel 107, Lot 1. Mr. Davidson stated that there are two entrances there that would never be used for the mining business; however, his employees are permitted to access the site to fish the

pond. There is currently a gate at one entrance and a full gate will also be placed at the second entrance. They will be closed off while mining is taking place.

- Chairman Mann heard Mr. Davidson state that they have only upgraded or replaced parts on existing equipment and no new equipment has been added to the site. For instance, he asked if anything had been changed at the wash station.

Mr. Davidson answered no, but at the 2018 hearing they were approved to have a dredge. As a result, they needed to accommodate it by lifting the plant up higher. The application before them today does not propose any new equipment.

Mr. Davidson assured Chairman Mann that he heard his statements correctly.

Mr. Butler asked how many loads are pulled from the mine per day. Mr. Davidson approximated that they pull 100 loads per day. Mr. Butler asked if they ever exceeded that amount. Mr. Davidson explained that there were no restrictions to how many loads they may do per day. Mr. Butler asked how long the project is expected to last. Mr. Davidson ventured to say it may be 8-10 years before the project is complete.

Ms. Leavell asked Mr. Davidson to describe a yarder. Mr. Davidson compared it to equipment that someone may have seen on a logging show dragging logs up a hill. For mining they put a cable over the pond, and the yarder takes an empty bucket over the pond to pull up the material. Ms. Leavell asked if the mining inspections took place closer to 4 or 8 times a year as he stated earlier. Mr. Davidson explained that it varied but has been typically every 2 to 3 months. They have inspected the site 3 times this year.

Ms. Hardy asked how many trucks, rather than loads, per day travel in and out of the site. She asked if any limit has ever been placed on the traffic at any point in past approvals. Ms. Ogletree explained that because the entrance is on a State highway, there has never been a limit put on truck traffic per day because the road was built to handle heavy traffic. She added that Mr. Davidson specified that there would be no change in volume of traffic than there is to date because they are limited to what they can produce with the equipment they have on site.

Chairman Mann asked Ms. Dadds to do a roll call of those in favor of the application.

Randee Hawthorne, 14986 Cherry Ln, Ridgely, MD – is in opposition and wants to testify;
Mitchell Mowell, 107 Court St, Chestertown, MD 21620 – representing Ms. Hawthorne;
Pat & Elon Block, 15261 Westbridge Ct. Henderson – is in opposition;
Sam Gardner– in favor but not participating;
Art Schlosser, 14982 Cherry Ln, Ridgely, MD – opposed;
Tom & Chris Murphy, 15020 Oakland Rd. Goldsboro – opposed;
Kim Myers, 15095 Cherry Ln, Ridgely, MD – opposed;
Bill Burton, 410-375-4510 – opposed;

Richard Keith, 15200 Westbridge Ct. Henderson, MD – opposed;
Debbie Rowe, 418 Main St. Marydel MD; and
Stacey Walstrum, 410-829-6955, 15125 Cherry Ln, Ridgely – opposed.

Chairman Mann explained that they will now be hearing testimony in favor of the application. He asked Mr. Gardner to unmute himself to be sworn in.

Sam Gardner, 2124 Priestridge Dr., Crumpton, Maryland. He was not there to testify.

Chairman Mann asked if there was any written testimony in favor of the applicant. Ms. Dadds confirmed there was none.

Chairman Mann stated that they would now be hearing testimony in opposition to the application. He asked Randee Hawthorne and her attorney Mr. Mowell to unmute themselves so that they can be sworn in.

Randee Hawthorne, 14986 Cherry Ln, Ridgely, MD; and Mitchell Mowell, 107 Court St, Chestertown, MD 21620.

Mr. Mowell had some questions for the applicant. Mr. Merriken suggested he begin with the cross examination and move directly into the testimony.

Mr. Mowell noted that Bramble owns 3 parcels of property within this project. He asked Mr. Callahan, therefore, why they cannot meet the 200' setback requirement. Mr. Callahan stated that they do meet the setback requirement and explained that one of the conditions of approval is to abandon the property lines to comply with the code. Mr. Bramble and Ms. Ogletree confirmed that none of the parcels are under a mortgage.

Ms. Hawthorne purchased her property in September of 2017. She was told the other 2 properties in the subdivision were to be used for hunting. They built the home for their family that consists of her and her husband and 9-month-old child. They also have a dog. The current mining operation creates minimal noise when they happen to be home during working hours. The work is approximately 1500' from their home. She suspects it will be much louder should they mine 200' from the property line.

Mr. Davidson did meet with Ms. Hawthorne and he stated the following:

- Once they begin work on Phase III, they will have the portion closest to her home mined and reclaimed within 24 months;
- They would not mine on Saturdays;
- No trucks would be using the Cherry Lane entrances because the road is not equipped to handle such traffic. However, the workers will have access to enter in passenger vehicles; and
- He agreed to add a few trees on/between the properties.

She is opposed to the application, however, if they were to be approved, she would like more than a 200' setback from her property line. She would prefer a privacy fence be used rather than the fence they are proposing. She is opposed to any access to the site from the Cherry Lane entrances. She spoke with a realtor who assessed her property at \$280,000. The realtor wrote in his report that *if they are going to mine a mere 200' from her property line it would hinder the currently*

assessed price and prevent the owners from receiving their fairest sale price if they were to decide to sell their property. Having the equipment running 6 days a week that close to the property would drastically reduce the interested parties, resulting in a much lower sale price causing a hardship on the homestead's owners. The letter was not submitted into the record.

Mr. Merriken suggested that Ms. Ogletree cross examine Ms. Hawthorne at this time.

Ms. Ogletree asked when Ms. Hawthorne purchased her home. Ms. Hawthorne answered that they purchased the land in March of 2017 and moved into the home in September of 2017. She did see the mining operation next door but did not make any attempt to find out if the operation could be expanded. Ms. Hawthorne stated that they were in their home during the 2018 expansion that they were not aware of either. Ms. Ogletree reminded her that she did attend the 2018 hearing and in fact she met with Mr. Davidson afterwards to discuss her concerns. Ms. Hawthorne stated that she meant she did not know they were going to expand the operation next to her property. She stated that she proposed to Mr. Davidson that he use a privacy fence rather than the wire fence noted in the plans. She said that she has a child and a dog and intends on growing a family there.

Ms. Ogletree asked if they were to agree to put up a privacy fence and add to the existing buffer would she be satisfied with the proposal. Ms. Hawthorne stated that she would also like the buffer to be more than 200'. Ms. Ogletree explained that the 200' setback is in the statute. They are willing to work with her on the fence and the screening but State law mandates that they make the most of the material that is on the site so the operation will not move from farm to farm.

Ms. Hawthorne repeated the testimony she gave regarding a realtor's report. Ms. Ogletree asked if the realtor was a licensed appraiser. Ms. Hawthorne said he has been for 4 years. When Ms. Hawthorne stated that his name was Brett Schrader with Taylor Properties, Ms. Ogletree corrected Ms. Hawthorne that he was not a licensed appraiser but has been a realtor for 4 years. Ms. Hawthorne argued that the realtor will be selling her home not the appraiser. Ms. Ogletree stated that they have a realtor, not licensed as an appraiser, giving an opinion about property value.

Mr. Davidson agreed that he had offered to not mine the 8-acre parcel on Saturdays for the agreed 24 months. He also agreed to the privacy fence and the thicker buffer along her property line. This completed Ms. Ogletree's cross examination. Chairman Mann swore Mr. & Mrs. Block in.

Elon & Pat Block, 15261 Westbridge Ct. Henderson.

Ms. Block asked Mr. Davidson if he was working 6-6:30 PM on August 16th. He said he was not. The trucks must be loaded by 5 but most are done by 4 PM. Ms. Block stated that they could hear back up alarms after 6 PM last night. Ms. Block explained that she and her husband are home all the time and they haven't been able to open their windows the last couple of years for the noise coming from the Bramble operation. They are definitely opposed. Chairman Mann next swore in Mr. Schlosser.

Art Schlosser, 14982 Cherry Ln, Ridgely, MD

He stated that his house was used as an example for market values. He uses his land to hunt and fish and the noise will scare away the wildlife. He claimed he would not have paid that much for his home if he knew the project would move closer to his property line. He is opposed.

Mr. Davidson answered that the privacy fence will continue along Mr. Schlosser's property. The workers do not use the driveway to conduct sand and gravel business. Mr. Schlosser stated that he did not have that in writing. Mr. Schlosser had submitted written testimony, however he stated that he did not want it entered or read into the record. Chairman Mann swore in Mr. & Mrs. Murphy.

Tom & Chris Murphy, 15020 Oakland Rd. Goldsboro

The Murphy's own the property encapsulated within the mine property. Ms. Murphy asked Mr. Turner how many properties he appraised where the property is surrounded by the mining operation. He stated that he included the purchase of her property in the appraisal and that it will be a beautiful property when it is reclaimed that will attract wildlife.

Ms. Murphy stated that they bought their home 27 years ago when it was a small project in the far corner of the property. The operation has grown since then. The dust is so heavy at times that they cannot open their windows nor see the tree line separating the properties. Many of the trees that served as a buffer have died. She asked if she understood right that a buffer will be required as a condition of approval.

Mr. Davidson responded that the dust they are speaking of was from the farming rather than the mine. He also suggested that if she were to propose a buffer, they could work something out. Ms. Murphy thanked him for his offer. She also responded that the dust she was speaking of was over the summer. When she called the Goldsboro Material's office to complain, she was told the water trucks were in operable.

Mr. Davidson remembered it differently. He remembered Mr. Bramble going to the site when he received her call and Mr. Bramble stating that he saw no dust. He can't know now why the office may have stated what they did, but he does know if they were not satisfied, Mr. Murphy has Mr. Davidson's cell phone number and Mr. Murphy never reached out to him directly.

Mr. Murphy stated that he was upset that Mr. Davidson only reacts to problems when he is made aware of them. He is particularly upset with the Planning Commission for not following up on the conditions they set. Furthermore, he stated that the County was without an enforcement officer for a very long time. Mr. Murphy said that he has been approached by Mr. Davidson and Mr. Bramble to sell his property to them.

Mr. Murphy said he measured the decibels from inside his house and at any given time it was over 95 decibels (no evidence was submitted). When he asks Mr. Davidson, he says the County measures the noise; and when he calls the County, he is told Mr. Davidson measures the noise. Mr. Davidson replied that they both monitor the noise. Mr. Davidson stated that he was not going to argue about it but the operation undergoes numerous inspections every year and he has not yet been written up for a noise violation.

Mr. Murphy said that when there was a sandstorm, he called the office and talked to the secretary at Goldsboro Materials. She asked him what he wanted her to do about it and said that he was the only one that complained and then she asked if he was threatening her. Arlene Seaman came to the site and had the area sprayed down. Ms. Murphy stated that they are opposed to the project.

Ms. Murphy asked how the mining property was zoned and taxed. Ms. Ogletree answered that it is zoned (R) Rural and mining is a permitted use in the (R) Rural Zoning Area subject to a Special Use Exception. When the Ordinance was amended a few years ago, to increase protection for citizens, there were 12 months of hearings. Ms. Ogletree stated that she was at all of them and the Murphy's did not attend any of them.

Ms. Ogletree explained that Caroline County's enforcement is complaint driven. When a citizen files a complaint the Enforcement Officer investigates. Caroline County is a large area for a finite amount of people to respond to complaints.

Ms. Ogletree stated that they don't know who spoke insensitively to Mr. Murphy, however, she suggested that they can speak to office staff or provide sensitivity training. Mr. Murphy asked who he should call if there is a problem. Ms. Ogletree suggested if he were to call her that she would get it corrected for him.

Mr. Murphy was angry that the appraisers report did not speak of the effect on value of his property at the center of the operation, but falsely described a dispute about the 25 acres of land that was purchased from Mr. Thomas. He denied that there was ever a dispute but maybe a misunderstanding.

Chairman Mann next swore in:

Kim Myers, 15095 Cherry Ln, Ridgely, MD

Ms. Myers was concerned about the noise and hours of operation. Her property is across from the big blue machine and there is no tree buffer. The noise starts at 6:15 am. She moved here 15 years ago when it was just a small operation. She did not attend the 2018 hearing, stating that she was not given enough notice. She claimed Mr. Davidson did not abide by the hours he is permitted.

Mr. Mann noted that setting up can start as early as 6 AM and loading the trucks can start at 7 AM. A back up alarm is on equipment as well as the trucks. He wants to make it clear that unless someone witnesses trucks being loaded, no one can state that Mr. Davidson is not complying with the conditions of approval.

Bill Burton was no longer on the call. Chairman Mann swore in:

Richard Keith, 15200 Westbridge Ct. Henderson, MD

Mr. Keith asked that his written letter not be read nor admitted into the record. He believes the project is in the wrong place at the wrong time. He asked Mr. Fitzhugh what the value was of the mine. Mr. Keith's 3.3 acres of land, he claimed, is assessed at more than the Bramble's multi-million-dollar industrial operation and he pays more taxes than they do. Ms. Ogletree explained that every time an acre is changed from farmland to industrial the taxes increase by 60 times more than the agricultural value. Mr. Keith believes they are destroying the roads and he is vehemently opposed to the expansion and the project. He promised he would work diligently with the tax assessment office to be sure Bramble pays their fair share.

Chairman Mann swore in Debbie Rowe, 418 Main St. Marydel, MD and she was in favor of the application. It was noted that Ms. Rowe was having technical difficulties and was unable to unmute during the in-favor portion of the hearing.

Ms. Rowe has lived in Caroline County for 21 years. She listened to the testimony and can understand both sides, but the project is already there. Mr. Bramble and Mr. Davidson do all that they can to appease the neighbors. She noted that whatever restrictions are put on this project must also be put on other mining projects in the county.

Chairman Mann swore in Stacey Walstrum, 15125 Cherry Ln, Ridgely, MD.

Ms. Walstrum is opposed to the project expansion. She purchased her property 15 years ago when it was a smaller operation. The expansion will bring the noise and the dust closer to her property. She also disagreed with the property assessment. Chairman Mann thanked her for staying with them for this long meeting. Ms. Walstrum informed them that Mr. Burton has certainly turned in for the night and she knows he had testimony he wanted to share.

Ms. Dadds read written testimony from Mitchell Arion, 15216 Oakland Rd. Goldsboro. The letter was marked as Third-Party Exhibit 1.

Mr. Arion is against the modification to the 200' setback. He wanted the Board to answer if there were any State or County regulations regarding noise decibel levels produced at an industrial site. And, if so, how often they were measured and what the consequences were if they were exceeded. He asked what recourse citizens have if they can document that they are not adhering to the hours of operation.

Ms. Ogletree stated that the only setback they are requesting to modify is the 99' along the haul road. Mr. Davidson stated that the haul road is already being used and without the modification they would leave a sliver of product unmined. He added that the conditions are that he cannot load trucks until 7 AM each workday. It is not confining the hours the trucks can enter the site.

Ms. Ogletree asked that the email from MSHA that was submitted late be entered into evidence as Applicant's Exhibit 1. The Board approved of entering the email into the record.

An email from Corina Callahan, MSHA Inspector, on Friday, June 28, 2019 addressed to Tom and Arlene. It read "FYI: here are the noise readings for each of the miners sampled yesterday, 6/27/19, at the Bridgeport Sand & Gravel (1800807) location for your records. The results indicate no issues with noise exposure exceeding allowable limits on any of the job positions sampled. Noise readings on employees within equipment. He would like one from the neighbors. Mr. Davidson stated that they are also monitoring the workers outside of the equipment. He added that the County checked the noise level twice and no problem was found. He can submit the report from yesterday.

Chairman Mann noted that the measurements were on the employees that are in the cab and insulated. He is interested in the noise levels of the properties just outside the property line. Mr. Davidson added that they also monitor the laborers who are shoveling dirt all day and are amidst the equipment.

This concluded the testimony. Ms. Ogletree stated that she had no cross examination. Mr. Mowell stated that he had no cross examination.

Chairman Mann asked the Board if they had any questions. Ms. Hardy stated that this meeting has been long and so much information has been shared she would like to meet another night to continue. Ms. Ogletree suggested the sides could submit written argument. Mr. Merriken stated that would require another public hearing.

Mr. Butler heard most of the concerns regarding dust and noise. Mr. Davidson said that the mine was there when the neighbors built their homes. The Brambles operation was smaller and now the need for this aggregate has increased. If the state has to obtain it from out of state, the travel is longer, and the price is higher. The neighbors complain because there is more noise and more dust. The dust is often caused by the agricultural work more so than the mining and there is not much they can do about that. There are many people supported by this business above and beyond the 10 employees on site. He assured everyone that they will abide by the law.

After some discussion with the applicants and opposition as well as the members and staff the Board agreed to close this portion of the hearing and continue with arguments, summary and deliberation at a later date.

Mr. Merriken explained that the Board could close the evidentiary taking of the case and go into the arguments of the council then go into deliberation.

Chairman Mann closed this portion of the hearing and those in attendance would agree upon a date to proceed.

Motion: Chairman Mann made a motion to close this portion of the meeting with no further testimony is heard only summary of statements and clarification questions and deliberation when the meeting is continued.

Second: Ms. Leavell seconded the motion.

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

Everyone agreed to continue the meeting on August 26, 2020 at 6 PM. Staff will notify all those that testified and post the meeting on the County website.

REVIEW AND APPROVALS

The members reviewed the Jones Estates Bay Country, LLC SUE and Variance Application 20-0003.

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

Second: Chairman Mann seconded the motion.

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

The members reviewed the minutes of the July 2020 Board Hearing and noted that the Chairman was incorrectly addressed as Mrs. Mann.

Motion: Ms. Hardy made a motion to approve the minutes with the noted change.

Second: Mr. Butler seconded the motion.

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

ADJOURNMENT

Motion: Mr. Mann made a motion to adjourn the meeting at 11:22 PM.

Second: Ms. Leavell seconded the motion.

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

The meeting was adjourned at 11:22 PM.

Melanie J. Smith

Minutes prepared by Melanie Smith