

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

DATE: March 20, 2012

PLACE: HEALTH & PUBLIC SERVICES BUILDING
403 S. 7TH STREET, 1ST FLOOR, ROOM 111
DENTON, MARYLAND 21629-1355

BOARD MEMBERS (PRESENT): W. A. STEWART WRIGHT, JR. PRESIDENT
STEVEN K. MELVIN, VICE-CHAIRMAN
W. R. CARTER, III, ALTERNATE MEMBER

ALSO PRESENT: ANNE C. OGLETREE, ATTORNEY
CRYSTAL DADDS, ASST. DIRECTOR OF CODES
DEBBIE HERR-CORNWELL, ASST. DIR. PLANNING
PENNY HUBBARD, RECORDING SECRETARY

W. A. Stewart Wright, Jr., Chairman called the regularly scheduled meeting of the Caroline County Board of Zoning Appeals to order at 7:36 p.m.

**GERALD L. & STEPHANIE L. BERKEY
APPLICATION #201200003, CRITICAL AREA VARIANCE**

The following documents were introduced as exhibits:

- Exhibit #1 – Application for Variance (2 pgs)
- Exhibit #2 – Real Property Data Sheet for Tax Map 37, Grid 14, Parcel 151, Lot 4
- Exhibit #3 – Copy of Tax Map 37, Grid 14, Parcel 151, Lot 4
- Exhibit #4 – Professional Site Plan prepared by Lane Engineering, LLC dated 1/17/2012
- Exhibit #5 - Aerial Photograph with Features Overlay (3 pgs)
- Exhibit #6 – Application for Water and/or Sewerage Verification (3 pgs)
- Exhibit #7 – List of Notified Adjoining Property Owners (2 pgs)
- Exhibit #8 – Photographs of property taken by staff on 3/5/2012 (9 pgs)
- Exhibit #9 – Notice of Hearing Published in Star Democrat on 3/9/2012
- Exhibit #10 – Notice of Hearing Published in Times Record on 3/14/2012
- Exhibit #11 – Critical Area Commission Letter dated 3/19/2012
- Exhibit #12 – Staff Report dated 3/10/2012 (4 pgs)
- Exhibit #13 – Gerald Berkey's Written Testimony
- Exhibit #14 – Professional Site Plan prepared by Land Surveys, Inc. dated 7/28/2008
- Exhibit #15 – Photographs of property taken by applicant (3 pgs)
- Exhibit #16 – Neighbor Letter from David Whaley dated 3/15/2012

- Exhibit #17 – Buffer Management Plan dated 2/1/2012 (2 pgs)

Chairman Wright introduced the hearing for Application #201200003 – Gerald L. and Stephanie L. Berkey - Application for Critical Area Variance. The Notice of Public Hearing was read into the record and the hearing was opened for testimony.

Gerald L. Berkey, 24629 Mill Creek Road, Denton, Maryland testified in support of the application by submitting and reading Exhibit #13, his statement into the record. At that time he also submitted Exhibit #14, #15 and #16 into the record. Mr. Berkey stated that the storage shed was located on the property when he and his new wife purchased the property in August of 2008. At that time, because he is a building contractor, he "dressed up" the building without realizing that a building permit was required. The existing plywood deck had holes and he was concerned for the safety of his grandchildren who liked to play on the structure. The storage shed was located on level ground which slightly sloped towards the creek. Exhibit #14 which is a professional site plan prepared by Land Surveys, Inc. dated 1980 depicted the 16' x 18' shed that had a one foot overhang. Mr. Berkey stated that the structure which he dressed up is a 1½ story building with electric, a concrete pad and a 16' x 16' footprint with no plumbing or new impervious surface created. He estimated that the shed cost approximately \$5,000 to construct and was valued at approximately \$1,000 before renovations because the previous owner had used pressure treated lumber. Mr. Berkey stated that the existing shed had bags of fertilizers, old gas cans and you could see that it had been used for lawn mower storage. The building now has a 5' roll-up door is designed so that no run off to the creek could occur. It would be used to store sealed gas cans and the second story would be used for storage as well. Mr. Berkey stated that the building was renovated under the existing high canopy trees with minimal soil disturbance and located approximately 3' from the beginning of the slope. The storage shed is located in the shaded portion of the backyard consisting mostly of small trees and woodland type vegetation.

Crystal Dadds, Assistant Director of Codes questioned Mr. Berkey about the 1980 date which he referred to in his testimony that is located on the survey which he received when the house was purchased. Ms. Dadds stated that the survey was actually prepared in 2008 and the date which Mr. Berkey referred to is the floodplain map date.

Mr. Berkey testified that during that time the structure was there.

In response to **Chairman Wright's** question **Mr. Berkey** testified that the concrete pad shown on the site plan dated 1/17/12 is an old dog kennel which he uses to store extra concrete blocks or to park his construction trailer. He stated that if necessary, the concrete pad could be removed to minimize the impervious surface located on his property. The additional portable storage shed located on the property is used for lawn mower and fuel storage.

In response **Mr. Carter's** question **Mr. Berkey** testified that the old storage shed was constructed of metal, had a metal floor and sliding doors.

Ms. Dadds stated that Exhibit #15, page 1 shows what the previous shed had looked like.

In response to **Chairman Wright's** question **Mr. Berkey** testified that in the 1½ story shed he stores a portable miter saw, a table saw and nails to keep them out of the weather. All power tools are stored in the portable shed. Mr. Berkey stated that because of the economy he works independently but at one time he did have one employee.

Mr. Berkey testified that he did not receive information regarding the Critical Area rules and regulations when he purchased the property. He stated that he has received a copy of Exhibit #11, which is the Critical Area Commission letter and Exhibit #12, which is the Caroline County Department of Planning and Codes staff report. Mr. Berkey stated that in February 2012 he submitted a minor buffer management plan and has planted the required square footage of trees.

Chairman Wright stated for the record that the Critical Area Commission is recommending that the variance be denied.

Mr. Berkey testified that if he had not renovated the structure, the structure would have deteriorated within the Critical Area Buffer possibly hurting the environment or someone. He was attempting to maintain his property and increase the value of his home and the neighborhood. He further stated that when they purchased the property, the house had not been lived in for over two years and was in disrepair. Mr. Berkey stated that he could understand the violation if he had built a new building but because it was an existing building he did not understand the problem.

In response to **Mr. Carter's** question **Mr. Berkey** testified that the portable shed can be moved forward but may encroach on his septic system or require trees to be removed which was why he had placed the shed in that location. He also stated that his subdivision covenants states that sheds cannot extend outside the back line of a house. Mr. Berkey stated that the portable shed is located within Flood Zone A & C and he has added flood vents and moved the electric to the height required by the current building code.

Ms. Dadds stated that because Mr. Berkey has made those renovations, he has been able to meet the requirements and no longer needs a floodplain variance.

In response to **Mr. Carter's** question **Mr. Berkey** testified that he could possibly move the portable shed forward approximately 10-12 feet to locate the shed entirely in Flood Zone C.

Exhibit #16, a letter from **David Whaley, 24522 Choptank Boulevard, Denton, Maryland** was submitted into the record in support of the request.

Pete Smith, 24585 Mill Creek Lane, Denton, Maryland testified in support and lives a few houses down the street from where the Berkey's reside. He stated that

when he moved to Mill Creek Lane 19 years ago the shed was located on the property and the renovations were made in the same footprint of the existing structure. He concurred with what Mr. Berkey had testified and stated that the property is now a "show place" with increased property value. He also stated that if Mr. Berkey were required to remove the shed the alternative would be to build a shed in front of the house which would be an eyesore and detrimental to surrounding property values. Mr. Smith stated that he worked for the Department of Natural Resources for 27 years as a project manager and does not see any detriment to the environment.

Edwin Richards, 24729 Williston Road, Denton, Maryland questioned if the Critical Area Buffer had been extended from the required 50' because of the steep slope? He stated that he owns the adjoining property located to the back of Mr. Berkey's property and wanted to know where the tidal waterline is located. He also questioned if the County had determined that the Berkey property did not exceed the allowed 15% lot coverage.

Chairman Wright stated that the Berkey's property has not exceeded the 15% allowable lot coverage. According to their site plan, Exhibit #4 they have 553 square foot remaining.

Debbie Herr-Cornwell, Assistant Director of Planning read Exhibit #12 into the record which is a staff report addressing the property's history. She stated for clarification that the Critical Area Buffer is labeled as "100' Tidal Wetlands Buffer" on the professional site plan which is Exhibit #4. In response to Mr. Richards question she stated that the inland buffer is based on 100' from the mean high water line or the landward edge of the tidal wetland. She stated that Mr. Berkey has provided the Department with plans addressing the 1½ story shed located within the floodplain. The Inspection Agency has reviewed the plans and determined that the shed can be modified to meet floodplain requirements located in the building code. Mr. Berkey has also applied to the Caroline County Department of Planning and Codes for a bedroom addition but the Critical Area Commission requires that all violations be resolved before additional building permits can be issued. Exhibit #4 which is a professional site plan addresses lot coverage for the proposed addition. Buffer establishment will need to be addressed for the proposed bedroom addition but is not needed for the two existing sheds because they were constructed prior to the new Critical Area regulations. Ms. Cornwell then submitted Exhibit #17 which is Mr. Berkey's Minor Buffer Management Plan for the existing 1½ story shed.

Chairman Wright called for additional testimony, and there was none in support nor any in opposition and the hearing was **closed**.

**CHOPTANK EXCAVATING, LLC
APPLICATION #200900014, SPECIAL USE EXCEPTION**

The following documents were introduced as exhibits:

- Exhibit #1 – Application for Special Use Exception (2 pgs)
- Exhibit #2 – Letter from DMS & Associates, LLC dated 8/11/2009 (2 pgs)
- Exhibit #3 – Real Property Data Sheet for Tax Map 32, Grid 12, Parcel 73
- Exhibit #4 – Copy of Tax Map 32, Grid 12, Parcel 73
- Exhibit #5 – Professional Site Plan prepared by DMS & Associates, LLC dated 8/2009
- Exhibit #6 – Aerial Photograph with Features Overlay (3 pgs)
- Exhibit #7 – Application for Water and/or Sewerage Verification (5 pgs)
- Exhibit #8 – Business Plan for Choptank Excavating, LLC
- Exhibit #9 – Dust Control Plan for Choptank Excavating, LLC
- Exhibit #10 – Entrance Approval letter from SHA dated 8/31/2009
- Exhibit #11 – List of Notified Adjoining Property Owners (2 pgs)
- Exhibit #12 – Photographs of property taken by staff on 3/6/2012 (7 pgs)
- Exhibit #13 – Notice of Hearing Published in Times Record the weeks of 3/7/2012 and 3/14/2012

Chairman Wright introduced the hearing for Application #200900014 – Choptank Excavating, LLC – Special Use Exception. The Notice of Public Hearing was read into the record and the hearing was opened for testimony.

David Blough, Sr., 9606 New Bridge Road, Denton, Maryland testified as the owner stating that he would like the business to remain at its current 9658 New Bridge Road location and obtain the Board's approval. He stated that he was raised on the farm and started working in the original shop as a child. Later he helped build the second shop when the original burned to the ground in 1996. The business started small and now has five or six employees of which two are family members and do not live on the property. Mr. Blough stated that he lives at another location on the farm and is the sole owner of the Limited Liability Company which he started in 1996. The property that the business is located on is owned by his father, mother and brothers. The main building located to the north on the property contains his father's farming equipment. Mr. Blough stated that the trucks he uses for the business are parked outside and one of the smaller buildings located on the southeast portion of the property is used for a meeting room in the morning. He stated that light truck maintenance may be done on site, but the trucks are taken to M & L in Federalsburg for most work. The driveway and parking area surface is stone and his father's house is the closest residence. Mr. Blough stated that most of their work is located in Caroline County but they also do work in other counties and the State of Delaware.

In response to **Chairman Wright's** question **Mr. Blough** testified that in addition to what is stated in his dust control plan, if there were a need, he would spray water on the driveway to control dust. He stated that there are trees and bushes located on the property to provide screening from New Bridge Road.

Chairman Wright stated that the business is visible while traveling on New Bridge Road towards Denton. When looking back at the property there is an open area approximately 90' from the northeast corner for approximately 60' to 70'.

Mr. Blough testified that he owns ten vehicles including trailers for the business and they are all licensed and tagged. He stated that there is a light pole located on the property and a motion sensor light located on the building, with all light directed towards the interior of the property. Mr. Blough stated that he has received entrance approval from the State Highway Administration and consents to an annual visual inspection by Caroline County Department of Planning and Codes. His employees work from 6:00 a.m. to approximately 4:30 p.m. Monday through Friday and some Saturdays with approximately six to seven trips in and out of the property per day.

Chairman Wright read from Exhibit #2, DMS & Associates report which states that the portion of the property that is used as commercial is located approximately 225' off of New Bridge Road and the application was filed on August 11, 2009.

Mr. Blough testified that DOT has certain standards which they abide by and they do have occasional meetings. All his drivers, which normally consist of him, his brother and his son, have CDL licenses and are randomly drug tested. Mr. Blough stated that his brother has been working for the company approximately eight years, his son approximately 12 years and another employee for approximately four years; they have very little turn over.

In response to **Mr. Melvin's** question **Mr. Blough** testified that he has no hazardous materials stored on site. They do have gas cans which are OSHA approved and if they are turned over, do not leak. He also stated that they have not had any problems with vandalism or theft.

In response to **Chairman Wright's** question **Mr. Blough** testified that the business does not have underground storage tanks.

In response to **Mr. Carter's** question **Mr. Blough** testified that the driveway and parking area material consist of #57 and #2 stone which allows the water to filter through and the excess drains towards the ponds. The water flows gradually to the pond which has a stand pipe. Mr. Blough stated that he would seed the area with grass if required by the Board.

Mr. Blough stated in closing that he employs six Caroline County residents and would like to keep them working.

Glen Blough, Jr., 9620 New Bridge Road, Denton, Maryland addressed the storm water management issue. He stated that the pond has a 30' grass buffer between it and the stone except in one corner where it is 15'. The grass buffer is approximately 6"-8" tall and is mowed regularly. He stated that the slope is 3 to 1 and additional seeding is possible but not on the sides of the driveway which crosses the dam. Mr. Blough stated that he has not seen any oil in the ponds due to of the stone and grass buffers. He also stated that the water drains towards his father's residence where there is a 200' grass buffer before it would reach New Bridge Road. All the water on the property does not gush towards the ponds.

Harry Cole, Department of Public Works Director testified that his Department subcontracts jobs out to local businesses when needed. He stated that Choptank Excavating, LLC is one of those businesses that sometimes are awarded a contract and he would like to see them remain in the County for economic purposes.

Glen Blough, Sr. 9652 New Bridge Road, Denton, Maryland questioned the earlier testimony regarding the visibility of the property.

Chairman Wright showed Mr. Blough on Exhibit #5 the portion of the property that was visible from New Bridge Road.

Mr. Blough stated that when there are crops in the field like corn, it dismisses the visibility from the road. He also stated that from where the trucks are parked to the front pond there is grass and a garden in between. Mr. Blough stated that he is the owner of the property along with his wife and sons and is in support of the application.

Chairman Wright called for additional testimony, and there was none in support or any in opposition and the hearing was **closed**.

**BISHOP'S BACKHOE & PLUMBING, INC.
APPLICATION #200900037, SPECIAL USE EXCEPTION**

The following documents were introduced as exhibits:

- Exhibit #1 - Application for Special Use Exception (2 pgs)
- Exhibit #2 - Real Property Data Sheet for Tax Map 19, Grid 19, Parcel 49
- Exhibit #3 - Copy of Tax Map 19, Grid 19 Parcel 49
- Exhibit #4 - Professional Site Plan prepared by Land Surveys Inc. dated 11/12/2009
- Exhibit #5 - Aerial Photograph with Features Overlay (3 pgs)
- Exhibit #6 - Application for Water and/or Sewage Verification
- Exhibit #7 - Business Plan for Bishop's Backhoe & Plumbing, Inc.
- Exhibit #8 - Entrance Requirement Letter from DPW dated 2/26/2010
- Exhibit #9 - List of Notified Adjoining Property Owners (2 pgs)
- Exhibit #10 - Photographs of Property taken by staff on 3/6/2012 (6pgs)
- Exhibit #11 - Notice of Hearing Published in Times Record the weeks of 3/7/ and 3/14/2012

Chairman Wright introduced the hearing for Application #200900037 - Bishop's Backhoe and Plumbing, Inc. - Application for Special Use Exception. The Notice of Public Hearing was read into the record and the hearing was opened for testimony.

Richard D. Bishop, Sr., 12555 Knife Box Road, Greensboro, Maryland testified that he has recently been thinking about retiring but his son would like to

continue the operation at its present location. He stated that the business has been in operation at the location for approximately 30 years. The corporation is owned by himself and his son, Kevin Bishop who is the majority owner. There have been no changes on the property since Exhibit #4, which is the site plan, was completed on November 12, 2009. Mr. Bishop stated that the business is located approximately 400' off of Knife Box Road. He stated that Caroline County Department of Public Works has notified him that the driveway must be widened to accommodate his business. He is proposing to widen the "Existing Gravel Drive" to their 30' specifications and not the "Stone Drive" as they are listed on Exhibit #4. Mr. Bishop stated that he does own the right-of-way which serves as access for the house located to the rear of the property and was once a portion of the farm.

Chairman Wright stated that Exhibit #8 states that a 40' entrance is required and the Board would need clarification from Caroline County Department of Public Works which entrance could be used and the width requirement.

Mr. Bishop testified that he would agree to Caroline County Department of Public Works requirements regarding the driveway. He stated that the "Cement Block Building" shown on Exhibit #5 is a 40' x 70' building that is used for plumbing supply storage. There are five vehicles associated with the business, three trucks and two trailers. The truck which pulls the backhoe is parked behind the cement block building and the ¾ ton pickup truck that pulls the skid steer trailer is parked in the metal building. His son takes one of the trucks home and his cousin which is the other employee come and picks up his truck daily. The 12' x 16' frame shed is where the office is located for the business. Mr. Bishop stated that the property is 18.54 acres; he farms and lives on the property. To control dust Mr. Bishop stated he would place a 5 mph speed limit sign and once the entrance is completed he would place stone on the dirt driveway.

Chairman Wright stated that Mr. Bishop would need to submit a formal dust plan.

In response to **Chairman Wright's** question **Mr. Bishop** testified that there are lilac bushes, trees and additional buildings which screen the property from the road. One of the buildings is a permitted accessory dwelling where his in-laws reside. Located to the back of the property there is some debris which he is planning to take to a salvage yard.

Ms. Dadds directed the Board to look at Exhibit #10 page 2 which shows the view from Knife Box Road.

Mr. Bishop testified that there is lighting located on the metal and concrete block buildings which is directed to the interior of the property. He stated that he consents to an annual visual inspection conducted by Caroline County Department of Planning and Codes. Approximate hours of operation are 7:30 a.m. to 4:30 p.m., Monday through Friday, unless they receive an emergency call.

In response to **Chairman Wright's** question **Mr. Bishop** testified that they have diesel fuel stored for the farming operation located on the concrete pad, to the

northeast of the property which is labeled on Exhibit #4. He stated that his wife has a tank on site for diesel fuel which she uses for her school bus but it has not been filled for approximately eight months. Mr. Bishop stated that they also have a gasoline tank which has not been filled since the price of gas has increased. There are three school buses located on the property; his wife drives one and the other his son drives. The third is used as a spare bus. He stated that his son and cousin have CDL licenses and they have safety talks. He does not have drug testing for his two employees because of the business size.

In response to **Mr. Carter's** question **Mr. Bishop** testified that the diesel fuel tank is located on a stand which sits on a concrete pad without a catch rim.

Mr. Carter stated that if the valve was accidental left open the diesel fuel would run off the pad and he is concerned since there is a ditch located approximately 340' away.

Mr. Bishop stated that the ditch is a low area on the property which only has water in it if there has been 6"-8" of rain but it is gone in a day. The property is currently not irrigated. Mr. Bishop stated in closing that he wishes to continue running his plumbing business, at this location as he has done for the last 30 years.

Harry Cole, Department of Public Works Director testified that the requirements for every home-based business entrance is different and depends on the type of equipment used for the business. He stated that he will have a letter of clarification sent to Mr. Bishop and a copy sent to Caroline County Department of Planning and Codes from his Department.

Chairman Wright called for additional testimony, and there was none in support or any in opposition and the hearing was **closed**.

The Board called a five minute recess at 9:40 p.m.

DELIBERATIONS

Deliberations followed for **APPLICATION #20090037 - BISHOP'S BACKHOE AND PLUMBING, INC. - SPECIAL USE EXCEPTION.**

The Board reviewed the criteria for granting a Special Use Exception and Residential Based Trucking and Service Businesses.

Chairman Wright noted that the Bishop property is located in a rural area of Knife Box Road where he resides and has ran his business for approximately 30 years. The area where the business activity takes place is located approximately 400' off of Knife Box Road. There is a backhoe and plumbing business, school bus operation and two residences located on the 18.54 property. Mr. Bishop and his son, Kevin are the owners of the business. Kevin Bishop is the majority owner of the business

and does not live on the property. Richard Bishop is planning for his retirement. There is an office located inside a metal building for business use. Approximate hours of operation are 7:30 a.m. until 4:30 p.m., Monday through Friday and as needed for emergency calls. Both employees have CDL licenses. There are a total of three trucks and two trailers located on the property that are used for Bishop's Backhoe and Plumbing, Inc. The application was filed on October 30, 2009.

The Board received a professionally prepared site plan with all structures located on the property shown. The property appears to have enough bushes, trees and structures to obscure the operation. There are lights located in three different areas of the property which are directed towards the interior. Mr. Bishop did not submit the required dust plan and will be required to do so. The Caroline County Department of Public Works will submit a letter with updated entrance requirements. Mr. Bishop did state that he would comply with whatever the county required to obtain entrance approval.

Mr. Melvin noted that the property looks like a farming operation from Knife Box Road.

Chairman Wright noted that three school buses are located on the property.

Ms. Dadds stated that the Board may need to address the three school buses. If there are employees coming to the site to pick up the buses then there may be a secondary business.

Ms. Ogletree stated that one bus is a spare, so employees would not be coming to drive the bus normally. Mrs. Bishop has her bus parked on the property and her son, who lives across the street parks his bus there as well.

Ms. Dadds stated that the son can park his bus on his property across the street. The question remains is the spare bus used frequently by other drivers.

Chairman Wright noted that more information is needed regarding the schools buses located on the property. He stated that if one bus is operated daily by his wife and the spare bus used infrequently, that would be o.k. If the spare bus is used every day by different drivers then different rules would apply.

Ms. Dadds stated that she would contact Mr. Bishop regarding the schools buses and email the Board with her findings.

The Board noted that there is a substantial amount of debris located to the back of the property which Mr. Bishop stated that he would be removing at some point. The debris should be removed, screened or located inside one of the existing buildings. If the number of vehicles changes Mr. Bishop would need to come back before the Board.

Mr. Carter noted that a rim is needed on the concrete pad located under the diesel fuel tank to contain possible spillage.

Conditions of approval include: 1) Obtain entrance approval from DPW; 2) Three truck and two trailer maximum; 3) Hours of operation: 7:30 a.m. – 4:30 p.m. M-F & emergency calls; 4) Lighting must be directed to the interior of the property; 5) Submit and comply with Dust Control Plan; 6) Debris should be removed, screened or located inside one of the existing buildings; 7) Place a rim on existing concrete pad located under diesel fuel tank; 8) One school bus operated daily by Mrs. Bishop parked on the property; 9) Must maintain proper licensing and registration for all vehicles; 10) Maintain site as personal residence; 11) Comply with annual inspection by Caroline County Department of Planning and Codes staff; 12) The Special Use Exception is not transferable; 13) Obtain a Zoning Certificate

Mr. Melvin made a motion to approve the Special Use Exception with conditions. Mr. Carter seconded the motion. The motion unanimously carried (3-0).

Deliberations followed for **APPLICATION #200900014 – CHOPTANK EXCAVATING, LLC - APPLICATION FOR SPECIAL USE EXCEPTION.**

The Board reviewed the criteria for granting a Special Use Exception and Residential Based Trucking and Service Businesses.

Chairman Wright noted that Choptank Excavating, LLC has been in business since 1996 at the property located on New Bridge Road which is owned by his father, mother, him and his brothers. There are five to six employees, two of which are family members. Ten total vehicles are used by the business which includes trailers.

Mr. Melvin noted that the hours of operation are 6:00 a.m. until 4:30 p.m. approximately, Monday through Friday and some Saturdays. They have occasional meetings and drug testing of the employees. All drivers have CDL licenses.

Chairman Wright noted the property is 1.99 acres. There is an office for business use located in an existing building, to the southeast side of the property. Maintenance for the vehicles is provided by M & L in Federalsburg with very little taking place on site. The application was filed on August 11, 2009. The professional site plan submitted included all existing buildings, trees and shrubbery. Mr. Blough did submit a Dust Plan which the Board recommended revising to include "applying water applications on gravel areas during heavy drought periods" which he agreed to.

The Board noted the entrance approval letter submitted by the State Highway Administration. Lights located on the property are directed to towards the interior.

Chairman Wright noted that trucks and equipment are stored outside and is visible from New Bridge Road at the northwest portion of the property for approximately 70'. Mr. Wright recommended 2½' to 3' white pines or evergreens per Ms. Cornwell. Any sections of bare ground between the gravel area and the containment pond with grass should be filled in.

Mr. Carter noted that the grass should be mowed once annually to control run-off.

The Board noted that there are underground tanks located on the property which is probably used for his father's agricultural business. Mr. Blough stated that the only fuel storage on site for the business was in OSHA approved metal gas cans.

Ms. Dadds stated that she would contact Mr. Blough regarding the underground fuel tanks and have him submit a statement about their use.

Conditions of approval include: 1) Six employees maximum; 2) Ten vehicle maximum; 3) Hours of operation: 6:00 a.m. - 4:30 p.m. M-F and some Saturdays; 4) Lighting must be directed to the interior of the property; 5) Comply with revised Dust Control Plan; 6) Placement of 2½' to 3' evergreen trees 90' from the northwest corner for approximately 70' towards New Bridge Road; 7) Plant any bare ground between the gravel area and the containment pond with grass which can be mowed annually; 8) Statement regarding in ground fuel tanks; 9) Must maintain proper licensing and registration for all vehicles; 10) Comply with annual inspection by Caroline County Department of Planning and Codes staff; 11) The Special Use Exception is not transferable; 12) Obtain a Zoning Certificate

Mr. Melvin made a motion to approve the Special Use Exception with conditions. Mr. Carter seconded the motion. The motion unanimously carried (3-0).

Deliberations followed for **APPLICATION #201200003 - GERALD L. AND STEPHANIE L. BERKEY - APPLICATION FOR CRITICAL AREA VARIANCE.**

The Board reviewed the criteria for granting a Critical Area Variance.

Ms. Dadds stated that Mr. Berkey submitted a picture as Exhibit #15 page 1 which shows what existed on the property when it was purchased by the Berkey's. The previous structure was a metal building with a kid's platform on top.

Mr. Melvin noted that Mr. Smith testified that he lives down the street and the shed existed on the property when he moved into the neighborhood 19 years ago.

Chairman Wright noted that the property value has increased since the Berkey's have cleaned up the property. Mr. Berkey thought he could renovate an existing structure without a permit located within the Critical Area. Mr. Berkey has since paid the required fines.

The Board noted that a letter received from the Critical Area Commission was not in support of this application.

Ms. Ogletree noted that the existing structure predated the Critical Area law.

Chairman Wright noted that Mr. Berkey is an independent contractor who uses the shed to store valuable tools, said structure having been modified to current floodplain standards.

Ms. Cornwell stated that Mr. Berkey constructed the sheds without obtaining a building permit.

Chairman Wright noted that the shed existed on the property probably around the time the house was constructed in the 1970's. When Mr. Berkey purchased the property there was an existing shed and he has the right to storage.

Mr. Carter noted that the shed was enlarged from the original footprint with a steep roof pitch creating more run off. Both sheds are located on a steep bank. Mr. Carter suggested guttering and a rain garden for the sheds. He also recommended moving the portable shed forward to the west approximately 10'-12' as far as possible without disturbing any trees or vegetation.

Chairman Wright noted that the existing concrete kennel pad would need to be removed.

Conditions of approval include: 1) Applicant must move the portable shed forward to the west approximately 10' to 12' without disturbing any trees or vegetation; 2) Remove the existing concrete kennel pad; 3) Add gutters to the existing sheds which lead to a rain garden; 4) Applicant needs to submit a Minor Buffer Management Plan.

Mr. Melvin made a motion to approve the Critical Area Variance with conditions. Mr. Carter seconded the motion. The motion carried (3-0).

OTHER BUSINESS

On motion by Mr. Melvin, seconded by Chairman Wright, the December 13, 2011 meeting minutes were approved. (2-0)

On motion by Mr. Melvin, seconded by Chairman Wright, the Written Decision for Glen C., Jr. & Betsy L. Blough - Variance Application #201100019 was approved. (2-0)

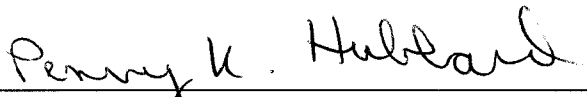
On motion by Mr. Melvin, seconded by Chairman Wright, the Written Decision for Thomas K., Sr. & Sandra R. Callahan - Variance Application #201100016 was approved. (2-0)

On motion by Mr. Melvin, seconded by Chairman Wright, the Written Decision for Caroline Co. Historical Society, Inc. - Critical Area Variance Application #201100017 was approved. (2-0)

There being no further business, the Board adjourned their regular meeting at 10:50 p.m.

The hearing was tape recorded for reference.

BOARD OF ZONING APPEALS
W. A. Stewart Wright, Jr. Chairman



Penny K. Hubbard, Recording Secretary