



**MINUTES OF THE BOARD OF APPEALS
CASE #2023-03 ROD N REEL INC/DONOVAN ESTATES LLC
CONTINUATION HEARING
JANUARY 25, 2024**

- I. The hearing was opened at 7:00 p.m. by Chair Jody Hoon-Starr. In attendance were Chair Hoon-Starr, Paul Doherty, Amy Everett, and Richard Burch, Board of Appeals Members, Sharon L. Humm, Board Clerk, and Fred Sussman, Board Counsel. Absent was Stephen Sharp, Board Member.

Chair Hoon-Starr asked the Board Clerk if any comments had been received since its last hearing. Board Clerk Humm stated for the record, one written comment had been received and provided a copy to the Board, and Counsels Blitz and Pounds.

- II. **Approval of the minutes of the January 4, 2024 Board of Appeals Case #2023-03 Rod n Reel Inc./Donovan Estates, LLC continuation hearing.**

MOTION: Mr. Doherty moved to approve the minutes of the January 4, 2024 Board of Appeals Case #2023-03 continuation hearing. Seconded by Mr. Burch, all in favor.

Chair Hoon-Starr noted, tonight's session will be a two-hour maximum session ending at 9 pm. All questions are to be addressed to the Board Chair and/or Board Counsel. Tonight, third parties of record will have the opportunity to ask questions of any given testimony at the conclusion of that testimony. Questions will be limited in scope to testimony presented. With the order of presentation, the Appellant's Counsel continues his presentation of testimony and evidence. At the conclusion, third parties of record will be offered a chance to question any witnesses. Once completed, Mr. Pounds, representative for the Town, will then present his testimony and evidence. Once both parties have completed their presentation of testimony and evidence, the public will have the opportunity to be heard. Summary statements will then be provided. With that being said, tonight will not allow for verbal public comments but written comments will be accepted at any time.

Chair Hoon-Starr read into the record Board of Appeals Case #2023-03 Rod n Reel Inc./Donovan Estates LLC application request and asked Mr. Blitz to resume his presentation.

Mr. Blitz began with a brief summary to bring the Board up to date on his presentation. Counsel noted that his presentation has been primarily focused on administrative errors on the part of the Zoning Administrator and the Planning and Zoning Commission in failing to process the five site plans filed on January 29, 2021.

He restated the two reasons offered by the Zoning Administrator for delaying site plan review; 1) review would impose a burden and jeopardize the Commission's work on the comprehensive plan and zoning ordinance update, and 2) the proposed moratorium. Tonight, Counsel will present facts, laws, and arguments that will be offered in favor of his client's relief. Counsel stated he first wanted to address a statement presented by Mr. Pounds that implied the Rod n Reel had not done everything necessary to obtain a review of the five site plan applications by the Commission. Mr. Blitz cited the

town zoning code presenting general requirements, processing procedures, and the administration of the permitting process by the Zoning Administrator. He stated all the requirements for category 1 site plans, including critical area site plans, were met by his client per the zoning code.

Mr. Blitz presented Section 4-306(f) of the Land Use Article of the Annotated Code of Maryland to the Board to provide what the Board's authority is and actions in exercising their powers.

Exhibit 52 – Select pages from the 2010 Comprehensive Plan, pages 7, 8, 18, 115, 116, & 131.

Page 18 – Notes Home Place project was granted approval on July 6, 2006 with the use of 7.42 acres of the Town's growth allocation.

Page 7 – Notes the Stinnett Place condominiums were part of the list of projected developments with permits issued; the Home Place, all approvals obtained, infrastructure permits issued; Harbor Vista North, development plan approved, but no final plats submitted.

Page 8 – Harbor Vista South and North (called HV South and West now) preliminary approval in 2002. Mr. Blitz stated that all five projects are well known to the Planning Commission and the Town Council as they had been included in the 2010 comprehensive plan, detailing the number of units for each project, population growth, zoning, land use, etc. (pages 115,116).

Mr. Blitz called Paul Woodburn to testify. Counsel Sussman swore in Mr. Woodburn. Mr. Woodburn stated he is a professional engineer and senior director at Atwell Engineering at 11721 Woodmore Road, Mitchellville, MD. Mr. Blitz asked Mr. Woodburn what were the fee amounts paid when he submitted the Rod n Reel applications for the site plan review. Mr. Woodburn replied \$5,400 for each site plan plus a \$250 base application fee.

Exhibit 53 – Copies of canceled checks from Rod n Reel that were submitted for site plan review fees.

Mr. Pounds objected to some of Mr. Woodburn's testimony provided as being the testimony of an expert witness. Mr. Blitz stated that Mr. Woodburn's testimony will be based on his professional experience. Objection was overruled.

Mr. Woodburn explained the locations of the Harbor Vista South, North, & West, Stinnett Place, and Home Place projects providing extensive details on each, along with any previous work that had been performed and completed. With that, Mr. Woodburn noted that though the projects were all in compliance with the zoning code when submitted on January 29, 2021, today, those projects as submitted, would not be in compliance.

Exhibit 54 – Minutes of the February 10, 2016 Planning & Zoning Commission meeting showing preliminary site plan approval for the Harbor Vista South Condominiums.

Exhibit 55 – Staff memo from Chris Jakubiak dated February 9, 2016 for Harbor Vista South Condominiums.

Exhibit 56 – Minutes of the February 8, 2017 Planning & Zoning Commission meeting requesting a one-year extension of the preliminary site plan approval for Harbor Vista South.

Exhibit 57 – Approved Town Zoning Permit #6670 dated September 16, 2011 with renewal of permit on 9/14/12.

Exhibit 58 – (3 pages) Approved Town Zoning Permit #6652 dated August 11, 2011 with 2 pages of renewal stamps showing permit #5688 being renewed for Stinnett Place.

Exhibit 59 – (4 pages) First two pages are approved zoning permit #6215 and stamped renewals, and last two pages are the grading permit from Calvert County for Home Place.

Concluding Mr. Woodburn's testimony, Mr. Blitz confirmed with Mr. Woodburn that he was the Civil Engineer for all five (5) of the developments. Mr. Blitz further asked Mr. Woodburn whether, in his professional experience, if the five (5) projects submitted on January 29, 2021 had been approved by Spring of 2021, could these projects have been under construction before May of 2022? Mr. Woodburn replied yes.

After the conclusion of Mr. Woodburn's testimony, the following parties of record questioned the witness within the confines of testimony presented:

1. Greg Morris, 2425 Woodland Court, Chesapeake Beach MD.
2. Laura Blackwelder, 3256 Cannoncade Court, Chesapeake Beach MD.
3. Kathleen Berault, 7409 B Street Chesapeake Beach MD.

Jody Hoon-Starr, Board of Appeals Chair, also questioned Mr. Woodburn.

Chair Hoon-Starr stated that at the beginning of the next hearing, Mr. Pounds will begin his cross-examination of Mr. Woodburn.

There being no further comments, upon motion duly made by Ms. Everett and seconded by Mr. Doherty, the Chair declared the hearing adjourned at 9:00 pm and to resume again on February 8, 2024, at 7 PM.

Submitted by,

Sharon L. Humm
Board of Appeals