

2006-02

FINDINGS AND RECOMMENDATION
Office of Planning and Zoning
Anne Arundel County, Maryland

APPLICANT: Chesapeake Terrace
National Waste Managers, Inc.

ASSESSMENT DISTRICT: Fourth

CASE NUMBER: 2005-0155-V & 0156-V
Board of Appeals BA 7-06V & 8-06V

COUNCILMANIC DISTRICT: Fourth

HEARING DATE: October 27, 2005
Board of Appeals June 8, 2006

PREPARED BY: Suzanne Schappert
Planner III

REQUEST

The applicant is requesting variances to permit an extension in time for the implementation and completion of previously approved special exceptions and variances for a rubble landfill and a sand and gravel operation for property located in the Odenton area.

LOCATION AND DESCRIPTION

The rubble landfill site is located on the southwest side of Patuxent Road, west of Bragers Road and consists of 481.6 acres. The sand and gravel site is located on the south side of Patuxent Road, west of Bragers Road and consists of 107.99 acres. The sites are designated as Parcels 20 & 117 in Block 08 on Tax Map 36.

The current RA-Agricultural Residential classification of the site was received as a result of the Small Area Planning Process for the Odenton area effective, June 21, 2004.

APPLICANT'S PROPOSAL

The applicant has requested variances for both sites to extend the time for implementation and completion of the previously approved special exceptions and variances, Case Numbers BA120-90S, BA26-91S and BA27-91V.

REQUESTED VARIANCE

Section 12-107 of the Anne Arundel County Zoning Ordinance provides that a special exception is rescinded by operation of law if action to implement the use is not begun within one year after the decision of the approving authority and the use is not completed and in operation within two years after the decision.

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Section 11-102.2 (a) provides that a variance becomes void unless a building permit is obtained within one year of the grant and construction completed within two years.

The Court of Special Appeals ruled on this matter on December 6, 2000, and the Court of Appeals denied appellate review on April 13, 2001. The applicants, Chesapeake Terrace/National Waste Managers, Inc. has been pursuing this project approval through the Maryland Department of the Environment since the original approval in 1993. However, the State permitting process takes a minimum of three (3) years and at times longer to complete. No permit has been issued at this time.

An extension in time for two (2) years was granted by the Board of Appeals on April 16, 2004 in Case Number BA 62-03V & BA 63-03V. This extension in time will end on April 16, 2006. The applicants requested an additional two (2) years extension in time for the implementation and completion of a special exception to operate a sand and gravel mining operation and a rubble landfill before the Administrative Hearing Officer on October 27, 2005 which was approved on January 4, 2006.

A variance of two (2) additional years in time is requested to implement and complete the approved special exception.

RECOMMENDATION

With regard to the standards by which a variance may be granted as set forth under Section 11-102, the Office would offer the following:

The Maryland Department of the Environment indicated in a letter to The Halle Companies dated June 15, 2005 that the applicant is currently in Phase III of the application review process and the copies of the letter and the Phase III Report are being transmitted to all interested agencies for their review and comments.

Although the applicant has stated they have been diligently pursuing this project approval through the Department of the Environment since the original approval, a permit has not yet been issued.

The Health Department comment dated June 17, 2005 stated they reviewed the request and has no objections.

Soil Conservation comment dated May 24, 2005 stated they reviewed the request and the District has no objection to permit an extension in time.

The Department of Recreation and Parks commented in a memo dated June 14, 2005 that the entrance road is proposed within a County owned parcel and they have not been contacted regarding the proposed roadway and is strongly opposed to the construction of this road. They

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recommend the variances be denied until such time as a suitable alternative access to this facility is identified and permission of all impacted property owners is acquired.

The Development Division of the Office of Planning and Zoning reviewed the request and offered no objection. Although the access road at some point will be an issue, it is not an issue for a time extension.

Provided the applicant demonstrate they have diligently been pursuing the permit through the Maryland Department of the Environment, it would appear exceptional circumstances exist to warrant variance relief, and that the variance is necessary to avoid a practical difficulty to enable the applicant to continue with the permitting process. The variance requested in this instance is the minimum necessary to afford relief.

Accordingly, the Office of Planning and Zoning would offer no objection to an additional two (2) year extension in time.

Suzanne Schappert

Suzanne Schappert, Planner III

June 5, 2006

Date

Lois Villemaire

Lois Villemaire, Asst. Planning and Zoning Officer

6/5/2006

Date