



**Report to the Board of Appeals
Request for a Special Exception
Hearing Date: April 9, 2013**

**Weatherly Farm, LLC
Docket # 1307**

Owner of Property: James R. & Denise A. Edelen

Applicant: Weatherly Farm, LLC and James & Denise Edelen

Attorney: Greer Law Firm
Sue A. Greer
200 Howard Street, Ste. 101
PO Box 1616
La Plata, Maryland 20646

Property Location: 14145 Banks O'Dee Road, Newburg, Maryland
Tax Map 86, Grid 1, Parcel 2, in the 5th Election District

Tax Identification: 05-014808

Zoning: AC (Agricultural Conservation) Zone
Majority of the property is in the RCZ (Resource Conservation) Zone

Attachments: Aerial Map, Location Map, Zoning Map

DESCRIPTION OF PROPERTY:

Lot size: 25.14 Acres

Existing on property: A Single Family residence and several barns, an existing wood pier, and fronts on the Potomac river.

Use proposed on-site: Use #4.01.400 – Social, Fraternal Clubs and lodges, union halls, meeting halls and similar uses

CHARACTER OF NEIGHBORHOOD:

The subject property is completely within the Agricultural Conservation Zone and in the Resource Conservation Zone and is surrounded by other properties containing single family residences in farm settings.

SPECIFIC REQUEST:

This is a request for a special exception under use #4.01.400 (Social, fraternal clubs and lodges, union halls, meeting halls, and similar uses). The applicant wants to provide a “scenic” event location on their farm. Specifically, they are proposing a location for weddings and other social events.

BACKGROUND:

Weatherly Farm contains a single family residence and several barns, is located off of Banks O’Dee Road, a public road, approximately seven tenths of a mile off of Maryland Route 257/Rock Point Road in Newburg, MD. The property has approximately five hundred (500) feet of frontage on the Potomac River. Consequently, a majority of the property is located within the Resource Conservation Zone (RCZ). It was determined by the Zoning Officer that this use is a permissible use in the Resource Conservation Zone (RCZ) which is an overlay of the Chesapeake Bay Critical Area.

BOARD AUTHORIZATION -

§297-415. H. The Board of Appeals shall grant a special exception when, from a preponderance of the evidence of record, the proposed use:

- (1) Will not be detrimental to or endanger the public health, safety and general welfare.

***Staff Findings:** There is no evidence that the proposed use will be detrimental to or endanger the public health, safety and general welfare of the neighboring properties.*

- (2) Is a permissible special exception in the zone?

***Staff Findings:** The subject property is zoned Agricultural Zone (AC) Zone. Use #4.01.400 is a permitted use with approval of a special exception.*

- (3) Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood.

***Staff Findings:** Since the lot size of the subject property is 25.14 acres, the use should not have a negative impact on the neighboring properties.*

Per the minimum lot size established for this zone under Figure VI-1, the minimum lot size is 3 acres. If this lot was only 3 acres, it would be more than likely that the use could have more of an impact on neighboring properties.

- (4) Complies with the standards and requirement set forth in Article XIII, **Minimum Standards for Special Exceptions and Uses Permitted with Conditions.**

The following are the minimum standards outlined in Article XIII:

- A. Any structure shall be located at a distance of not less than 100 feet from any lot line, except that not less than 50 feet at commercial or industrial zone lot lines shall be allowed. The front setback shall be at least 100 feet, except when bordering highways of eighty-foot rights-of-way or more, where the setback shall be 50 feet.

Staff Finding: *According to the site plan submitted, all structures are located more than 100 feet from any lot line, with the exception of a small portion of the pre-existing screened in porch. However, this was approved during the Critical Area review of the building permit when built.*

- B. The provision of food, refreshments and entertainment for club or organization members and their guests may be allowed in connection with such use.

Staff Finding: *Food, refreshments and entertainment will be provided by independent, licensed vendors.*

A review of the application was done by the Health Department. They advised that the applicant will be required to contact them for appropriate permits to hold temporary events through their office.

- C. All outdoor lighting shall be located, shielded, landscaped or otherwise buffered so that no direct light shall intrude into any adjacent residential area.

Staff Finding: *The applicant states in their application that the nearest house is located to the south of the property and is buffered by a wood line. As part of the required Site Development Plan review, any lighting sources will be reviewed to verify compliance with this condition.*

- (5) Will cause no objectionable impact from traffic, noise, type of physical activity, fumes, odor, dust, or glare.

Staff Findings: *The proposed use will typically be on weekends which may cause an increase of traffic on Banks O'Dee Road and Maryland Route 257/Rock Point Road. The applicant advised that in order to minimize the impact on the surrounding neighborhood, they are requiring the events to conclude by 11:00 p.m. Therefore, the use will not cause objectionable impact, noise, type of physical activity, fumes, odor, dust or glare than average for this type of use in this zone.*

- (6) Will provide adequate utilities, water, sewer or septic system, access roads, storm drainage and/or other necessary public facilities and improvements. If a use requires an adequate public facilities review by the Planning Commission, such review shall be made a condition of the granting of the special exception by the Board.

Staff Findings: *The property is currently served by well and septic which was approved during the permit process for the existing dwelling. If the size of the event requires additional bathroom facilities, this will be reviewed as part of the Health Department requirements.*

The Preliminary Adequate Public Facilities Analysis is reviewed prior to Site Development Plan approval.

- (7) Will provide adequate ingress and egress and be so designed as to minimize traffic congestion to the public streets.

Staff Findings: *The entrance is not paved within the County road right-of-way. If due to any event activity, any gravel/debris/mud is tracked on to the County road, Banks O'Dee, then the driveway*

would need to be upgraded to meet current County entrance standards.

- (8) Is in accordance with the objectives of the Charles County Comprehensive Plan.

Staff Findings: *The proposed use is in conformance with the objectives of the Charles County Comprehensive Plan.*

- (9) Conforms to the applicable regulations of the zone in which it is located and to the special exception requirements established for the specific use.

Staff Findings: *If the special exception request is approved by the Board of Appeals an application for Site Development Plan review approval will be required to confirm that the operation of the proposed business and the site will comply with all applicable County and State regulations, including the minimum standards for the proposed Use #4.01.400.*

STAFF RECOMMENDATIONS:

In order to adequately address all of the requirements of the Zoning Ordinance, the Planning Office recommends the following **Conditions of Approval**, should the Board of Appeals find that it can approve this application:

- The Applicant must submit a Site Development Plan application for review and approval by all appropriate County and State agencies in accordance with all applicable regulations.
- The Applicant must apply for all applicable building permits after receiving Site Development Plan approval for the use.
- If due to any event activity, any gravel/debris/mud is tracked on to the County road, Banks O'Dee, then the driveway would need to be upgraded to meet current County entrance standards.