

**ST. MARY'S COUNTY BOARD OF APPEALS**

In the Matter of Israel and Rachel Fisher,  
37404 Westham Lane,  
Mechanicsville, Maryland

Case No. CUAP #16-131-005

**DECISION AND ORDER****Introduction**

Israel and Rachel Fisher (hereinafter "Applicants"), filed an application for a conditional use pursuant to the St. Mary's County Comprehensive Zoning Ordinance (hereinafter the "Ordinance") regarding property located at 37404 Westham Lane, Mechanicsville, Maryland (hereinafter the "Property"). The application seeks conditional use approval for use type 86, slaughterhouse.

After due notice, a public hearing was conducted at 6:30 p.m. on December 15, 2016, at the St. Mary's County Governmental Center at 41770 Baldrige Street in Leonardtown, Maryland. All persons desiring to be heard were heard after being duly sworn and documentary evidence was received. The proceedings were recorded electronically.

**Legal Standard**

The Board shall not approve a conditional use unless it finds, based on the evidence, that:

1. The conditional use complies with the standards of the district in which it is to be located and standards applicable to that use;
2. The establishment, maintenance, and operation of the conditional use will not be detrimental to or endanger the public health, safety, convenience, morals, order, or general welfare;
3. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and will not substantially diminish or impair property values within the neighborhood;
4. The proposed use at the proposed location will not have adverse effects above and beyond those inherently associated with the proposed use irrespective of its location within the zoning district;
5. Adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided;
6. Adequate measures have been or will be taken to provide ingress and egress following a design that minimizes traffic congestion in the public streets;

7. The proposed conditional use is not contrary to the goals, objectives, and policies of the Comprehensive Plan; and
8. The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located or to the special requirements established for the specific conditional use in Chapter 51.

### **Findings of Fact**

The Property is a family owned and operated farm consisting of 82.65 acres according to the Maryland Department of Assessments and Taxation Real Property Data. The Property contains a two-story single-family dwelling, six barns, and a silo according to the site plan submitted in support of this conditional use request. The Property has historically been used for growing crops and raising livestock. The Property is also the site of an active surface mine, which obtained conditional use approval in 2015 (CUAP 15-131-011) and authorization from the Maryland Department of the Environment.

The Applicants plan to convert an existing 2,100 square-foot, or 30-foot by 70-foot, barn to a slaughterhouse. A second barn, measuring 20 feet by 60 feet, or 1,200 square feet, will be converted into a retail butcher shop. The barns are labeled B and A respectively on the site plan.

The Applicant intends to continue butchering his own livestock as needed, but he also plans to accept animals from customers in need of a facility that can slaughter, dress, age, and cut and package their meat. The different stages of the operation will be conducted under the supervision of an Inspector with the U.S. Department of Agriculture (USDA). The Applicant will slaughter animals outside on an existing concrete pad as he does now. Once dressed, animals will be transferred to a refrigerated unit in the slaughterhouse where they are aged in preparation for cutting and packaging.

The proposed slaughterhouse will be a small scale operation to accommodate a local market. The Applicant will not have a feedlot, which is typical of a large commercial slaughterhouse. The adjoining properties are large farms in agricultural in use. The raising of livestock and the butchering of livestock for personal consumption are common practices.

The existing point of ingress and egress is 25 feet wide at Westham Lane, a private right of way. There are three residences located on Westham Lane. The existing ingress and egress will accommodate the limited traffic to and from the proposed slaughterhouse.

Compliance with USDA and Health Department requirements for a slaughterhouse will safeguard the overall safety of the meat products and ensure that adverse effects such as offal, or waste products, and gray water are eliminated properly. The site plan review process will ensure that the Applicant satisfies the requirements of the St. Mary's Health Department, the Department of Public Works & Transportation, the St. Mary's Soil Conservation District, and the Department of Land Use and Growth Management.

Conclusions of Law

The legislative body, by designating a conditional use, has deemed it to be generally compatible with other uses. Therefore, general compatibility is not normally a proper issue to be considered. That issue has already been addressed and legislatively resolved. Moreover, it is not whether a conditional use will have adverse effects (adverse effects are implied in the first instance by making such uses conditional uses rather than permitted uses), it is whether the adverse effects in a particular location would be greater than the adverse effects ordinarily associated with a particular use that is to be considered. In the present case, any adverse effects will not be greater, and may be less, than the adverse effects ordinarily associated with a slaughterhouse.

According to Section 4.2 of the Comprehensive Plan, "Within designated rural areas agricultural activities are the preferred land use, including those that may produce agriculturally related noise and odors at any time. The sale of farm products from the land where they are produced should be supported."

ORDER

**NOW, THEREFORE, BE IT ORDERED**, that, having made a finding that the standards for a conditional use pursuant to the St. Mary's County Comprehensive Zoning Ordinance have been met, a conditional use for use type 86, slaughterhouse on the Property located at 37404 Westham Lane, Mechanicsville, Maryland is **approved**.

Date: January 12, 2017

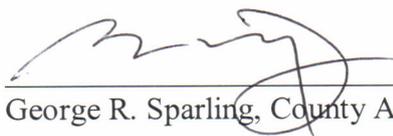


George A. Hayden, Chairman

Those voting to grant the variance: Mr. Hayden, Mr. Brown, Mr. Greene, Mr. Egeli and Mr. Miedzinski

Those voting to deny the variance:

Approved as to form and legal sufficiency:

  
George R. Sparling, County Attorney