

ALLEGANY COUNTY ZONING BOARD OF APPEALS

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| IN RE: | * | |
| DAN'S MOUNTAIN WIND | * | Case Numbers: 942 |
| FORCE, LLC, ET AL | * | Hearing Dates: 10/27/15 |
| FOR A SPECIAL EXCEPTION | * | 10/28/15 |
| | * | 10/29/15 |
| | * | 11/13/15 |
| | * | 12/21/15 |

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FINDINGS OF FACT AND OPINION

This case came before the Allegany County Board of Zoning Appeals (the "Board") upon Dan's Mountain Wind Force LLC's, (the "Applicant"), application for a special exception to construct a wind farm within the Agricultural, Forestry, and Mining ("A") Zone and Conservation ("C") Zone. This request for a special exception was coupled with Board of Zoning Appeals Case 943 and required the Board to grant certain variances requested in Case 943 in order for the subject properties to meet the criteria of the existing zoning ordinance. At the hearings conducted over a five day period, October 27-29, 2015; November 13, 2015; and December 21, 2015, the Board considered the exhibits (list attached) which consisted of information gathered by the Secretary of the Board and information provided by other agencies and individuals. The Board further considered the testimony presented at the hearing by applicant and its expert witnesses in order to ascertain whether the proposed variances would meet the standards and criteria of the zoning ordinance. Based upon the expert testimony presented and a review of the applicable law regarding the criteria the zoning board must follow in order to grant said variances, the Board voted 3-0 to deny the variances requested.


Following the Boards denying the variances, the law in Maryland is clear. Where conditions


or standards are required to be conformed to in order to receive approval of a special exception, the inability to secure a variance to those standards or conditions requires that the special exception be denied. Umerly v. People's Counsel for Baltimore County, 108 Md. App. 497,672 A.2d 173 (1996.)


CONCLUSION

Based upon the findings set forth above, the Board voted at the conclusion of the hearing of November 13, 2015, 3-0 to deny the Applicant/Co-Applicant's request for a special exception to construct a wind farm within the Agricultural, Forestry, and Mining ("A") Zone and Conservation ("C") Zone. This decision was reaffirmed by a 3-0 vote on December 21, 2015, upon acceptance of the final written opinion.


ATTEST









BOARD OF ZONING APPEALS

By: 

Julia Williams, Chairperson
By: 

William Powell, Member
By: 

Rodger Uphold, Member

Copies to: See Attached List
Attachment: Exhibits List