

DECISION
TALBOT COUNTY BOARD OF APPEALS
Appeal No. 19-1693

Pursuant to due notice, a public hearing was held by the Talbot County Board of Appeals at the Bradley Meeting Room, Court House, South Wing, 11 North Washington Street, Easton, Maryland, beginning at 6:30 p.m. on May 20, 2019, on the application of **BLK VENTURES, LLC** (the “Applicant”). The Applicant is requesting a special exception to establish a Stable, riding rink and horse boarding (commercial) use on the Applicant’s Property.

The Property comprises 32.53 acres, more or less, and is located at 27334 Little Park Road, Easton, Maryland 21601, within the Western Rural Conservation (“WRC”) zoning district. It is shown on tax map 16, grid 5 as parcel 59. Applicant is the owner of the Property. The request is made in accordance with Chapter 190 Zoning, Article IV, §190-25 and §190-26.15; and Article VII, §190-56 of the *Talbot County Code* (the “Code”).

Present at the hearing were Board of Appeals members Phillip Jones, Chairman; Frank Cavanaugh, Vice Chairman; Louis Dorsey, John Sewell and Paul Shortall. Brendan Mullaney, Esq. and Ryan Showalter, Esq., of McAllister, Detar, Showalter & Walker, LLC, 100 N. West Street, Easton, Maryland 21601, appeared on behalf of the Applicant. Miguel Salinas, Assistant Planning Officer and Brennan Tarleton, Planner I, attended the hearing on behalf of Talbot County. Two additional members of the public were present. William C. Chapman was the attorney for the Board of Appeals (the “Board”). It was noted for the record that each member of the Board had individually visited the site.

The following exhibits were offered and admitted into evidence as Board’s Exhibits as indicated:

1. Application for Special Exception.

2. Attachment A to Application for Special Exception.
3. Tax Map.
4. Notice of Public Hearing for *The Star Democrat*.
5. Newspaper Confirmation.
6. Notice of Public Hearing with Adjacent Property Owner list.
7. Standards for Special Exception.
8. Staff Report from Planning and Zoning, prepared by Brennan Tarleton, received May 7, 2019.
9. Planning Commission's Recommendation.
10. Sign Maintenance Agreement.
11. Independent Procedures Disclosure and Acknowledgement Form.
12. Aerial Photo.
13. Floor Plan and Elevation Plan.
14. Plat for Fink, Whitten & Associates, LLC.

Mr. Mullaney testified on behalf of the Applicant, along with Kelly McGinn and Robert Cordes, members of BLK Ventures, LLC. Mr. Mullaney said that on May 1, 2019, the Talbot County Planning Commission unanimously recommended approval of Applicant's special exception, noting that the Stable, riding rink and horse boarding (commercial) use (the "proposed use") is an agricultural use that meets the standards of the Comprehensive Plan for the WRC district. Mr. Mullaney said that what makes Applicant's proposed use unique is that it involves horses being trained, as opposed to riders receiving riding lessons on the Property. The proposed use involves horses being trained by Ms. McGinn in dressage, a highly skilled, English style of riding performed in exhibition and competition. Ms. McGinn will both ride and train the horses

for competition dressage, five to six days per week, as well as riding horses in competitions. The proposed facility on the Property will board and train a maximum of 10 horses commercially at one time; two of the horses on the Property belong to Ms. McGinn. The proposed facility will feature 12 stalls, and will not be open to the public, although owners of the horses boarded and trained there can visit periodically to observe and check on their horses. Manure produced by the horses will be stored in a three-sided structure, Mr. Mullaney said, on the north side of the barn, furthest from the road. The manure will be hauled off once or twice per month to be used for agricultural purposes.

Mr. Mullaney discussed the site plan, showing two connected buildings including a barn with an office, bathroom and washing bay. In response to question from the Board regarding a pond on the Property, Mr. Mullaney confirmed that the Property was outside the Critical Area and non-tidal.

Ms. McGinn said some horses board for years, some for a matter of months, depending on the owner, and that she has some long-term clients. Although horses come and go by trailer, she said, no trailer parking will be available on the Property. In response to a question from the Board about the number of anticipated visitors to the Property at any given time, Ms. McGinn estimated no more than five cars at a time: someone to clean the barn, Ms. McGinn's vehicle, a groom to tack the horses, and an occasional owner or two visiting. Most owners, she said, work full-time and schedule visits in advance. Ms. McGinn said the Property is "extremely quiet," and as it is also the location of her and Mr. Cordes' residence, the proposed use is not designed to receive visitors at all times of day. Ms. McGinn said she has been training dressage horses for many years, and does not want to train more than twelve at a time.

Ms. McGinn said there are 10 acres in the back of the Property that she does not intend to include in the proposed use, and that she has spoken to a farmer about tilling it as farmland.

The Board invited testimony from any members of the public present who wished to testify. Dan Larian, 10555 Lake Road, Easton, Maryland 21601, lives adjacent to the Property. Mr. Larian asked if another type of business could operate on the Property if the Applicant's proposed use does not work out. Mr. Jones said the special exception request is for the proposed use only: stable, riding rink, and horse boarding (commercial) as defined by the Code. Mr. Larian said he is a civil engineer and concerned about stormwater runoff.

Mr. Jones said he took note of the Planning Commission's noting that the proposed use meets the definition of agriculture. "It's not a hobby – it's commercial like other agriculture is commercial," he said. Mr. Shortall said that, even with a "more commercial" riding instruction use with several young riders at a time, a neighbor would not hear the use within a quarter mile. The proposed use, he said, would have little impact on neighbors and seems like a good use for the Property. Mr. Dorsey said the Applicant had met all of the special exception criteria. Mr. Sewell agreed that the Applicant met the criteria and said that the proposed use would fit well into, and benefit, the surrounding area and would not be a nuisance. Mr. Cavanaugh said the Comprehensive Plan is specific about permitted uses, and that the Application meets the definition of exceptions in the WRC district. Mr. Jones said that the County Council, in enacting special exception criteria in the Code, presumed that certain uses were acceptable in certain zones. The Property is well-suited for the proposed use, he said, lying in a less-sensitive area without narrow roads, within the WRC zone. Mr. Cavanaugh said the site plan and building construction will need approval.

The Board then considered the application. Based on the testimony, application and exhibits, upon motion and seconded, the Board approved the requested special exception modification and variances, by a vote of five to zero.

The Board made the following findings of fact and law:

1. All legal requirements pertaining to a public meeting were met.
2. The use will be consistent with the purposes and intent of the Talbot County Comprehensive Plan. Undeveloped working agricultural lands are an imperative resource to Talbot County's rural character and quality of life. Agricultural land practices serve a dual purpose within the County by helping to retain valuable open space and contributing to the agricultural viability of the Eastern Shore of Maryland as a whole. The County permits several types of commercial- and industrial-based agricultural land uses only in the most appropriate of areas to ensure compatibility with surrounding land uses and the protection of the environmentally sensitive lands within the County. (2016 Talbot County Comprehensive Plan, Chapter 5, General Agricultural Land Use Policies 5.3 & text.) The Stable, riding rink, and horse boarding (commercial) land use is permitted by Special Exception within all of the County's conservation districts, including the WRC district. The land use requires a 10-acre minimum lot size, or one acre per horse, whichever is greater, to ensure that sufficient setbacks from neighboring properties can be maintained. The land use also requires supplemental setbacks: a 50-foot setback for feeding and watering areas from any body of water for environmental protection, and a minimum 200-foot setback for related structures. Based on the Applicant's site plan, the Applicant has complied with both required setbacks. At over 32.5 acres, the site also exceeds the required minimum lot size for a Stable, riding rink,

and horse boarding (commercial) use, and offers an appropriate space for the Applicant's commercial-based agricultural business. The stable and riding facility can be situated and screened in such a way as to not generate negative impacts on neighboring properties. As depicted on the Applicant's floor plan, the maximum number of horses to be kept in the stable at any one time will not exceed 12.

3. The use will comply with the standards of the zoning district in which it is located, except as those standards may have been modified by the granting of a variance. Applicant is requesting no variances with the Application, and based on the submitted plans, no variance is required for the proposed use. Applicant's proposal will comply with the standards spelled out in the Code. The proposed use also meets the additional setbacks required under §190-26.15 of the Code, specific to the Stable, riding rink and horse boarding (commercial) use. Additionally, Applicant will be required to obtain major site plan approval for the proposed facility. During this process, Applicant must ensure that all of the design standards, including off-street parking, are met. The Planning Commission will be the approving authority for the site plan.

4. The scale, bulk and general appearance of the use will be such that the use will be compatible with adjacent land uses and with existing and potential uses in its general area and will not be detrimental to the economic value of neighboring property. The proposed facility will include a 3,805 square foot horse stable along with a 14,335 square foot riding area for a total of 18,140 square feet of building area. The majority of the parcels in the surrounding area are a mix of relatively low-density development with actively tilled farmlands, as well as some forested area. Based on the renderings of the building the Applicant supplied, it appears the proposed facility will be designed similarly to other

pole barn structures that can be found on agricultural parcels throughout the County. Applicant's site plan indicates that the building will be no closer than 208 feet from the nearest property line, which exceeds the required setback. The proposed facility will be located north of the existing garage and residential dwelling on the Property, and approximately 443 feet from the southern property line abutting Little Park Road. Screening and landscaping measures would help ensure that the proposed use would not negatively impact neighboring properties.

5. The use will not constitute a nuisance to other properties and will not have significant, adverse impacts on the surrounding area due to trash, odors, noise, glare, vibration, air and water pollution, and other health and safety factors or environmental disturbances. Regular agricultural practices within the County are covered under Chapter 128 of the Code, which recognizes and assists in protecting individuals' right to farm while acknowledging that some inherent effects of those operations may result in noise, odors, dust, glare, runoff, etc. The impacts are typical of operations that include harvesting of crops as well as preparation or packaging of farm products. Applicant's proposed facility and proposed use is tailored to the boarding and training of horses, which is recognized as a commercial agriculture operation under Chapter 128 of the Code. As a result, it can be assumed that there are occasions when impacts due to odor and noise could become apparent from the regular operation of the proposed facility. However, Applicant indicated during the pre-application meeting that, because the training facility will be under roof, and the horses will be boarded indoors, much of the impact associated with noise and odors will be minimized. Applicant also testified that no more than 12 horses will be boarded and trained at one time, which would also tend to

minimize these impacts. Applicant also testified that, because horses are trained – not riders – the number of persons on the Property at any given time and vehicles coming and going to and from the Property will be minimal. Additionally, Applicant testified that waste produced by the horses will be removed from the Property on a regular basis to be used as fertilizer for other agricultural practices. Lastly, the Property is surrounded by agricultural lands.

6. The use will not have a significant adverse impact on public facilities or services, including roads, schools, water and sewer facilities, police and fire protection or other public facilities or services. Applicant provided pre-application information and testimony that virtually no vehicular traffic will result from the Board's approval of the Application. The residential portion of the Property is served by onsite well and septic, and is located in the Tier 4 Septic Tier designation. There are currently no plans by the County to provide well and septic to properties within this area. Applicant has also indicated that no additional impacts are expected for police, fire protection or any other public facilities or services as a result of the proposed use.

7. The use will not have a significant adverse effect upon marine, pedestrian or vehicular traffic. The Property is located in a relatively low-density residential area of the County. If the vehicular traffic generated by the proposed use will be minimal, as Applicant has testified, no additional impacts to the regular movement of traffic are anticipated.

8. The use will not produce traffic volumes which would exceed the capacity of public or private roads in the area or elsewhere in the County, based on the road classifications established in Chapter 134, the Talbot County Roads and Bridges

Ordinance, and other applicable standards for road capacity. Applicant testified and provided pre-application information that virtually no vehicular traffic will result from the proposed use.

9. Any vehicle access to proposed off-street parking areas and drive-in facilities will be designed to minimize conflicts between vehicular, bicycle and pedestrian traffic and to minimize impacts on adjacent properties and on public or private roads. In addition, any resulting commercial and truck traffic should not use a residential street nor create a hazard to a developed residential area. Applicant's site plan does not depict proposed parking for the proposed facility, but any parking and access for the proposed use must meet the design standards as enumerated under §190-41 of the Code to obtain major site plan approval. If the Applicant wishes to obtain any waivers of these required standards, the Planning Commission will be the approving authority.

10. The use will not significantly adversely affect wildlife with respect to the site's vegetation, water resources, or its resources for supplying food, water, cover, habitat, nesting areas, or other needs of wildlife. The proposed facility appears to be located in an existing agricultural field. Therefore, based on the location of the proposed structures identified in the site plan, additional tree removal or substantial vegetated area disturbance would not result from the proposed use. There appear to be some non-tidal wetlands present to the west and north of the proposed facility. Applicant will be required to address stormwater management and generate an erosion and sediment control plan for the proposed facility in order to ensure that these sensitive areas are not significantly impacted or altered during construction or at any point thereafter.

11. The use will not significantly adversely affect adjacent existing agricultural uses.

Stormwater regulations must be adhered to in order to address any runoff coming from the proposed facility to neighboring properties will not be negatively impacted. There are no proposed site improvements that appear to be impeding on neighboring properties in such a way that would negatively impact existing agricultural operations. Additionally, the proposed use is an agricultural use as defined by the Code.

HAVING MADE THE FOREGOING FINDINGS OF FACT AND LAW, IT IS, BY
THE TALBOT COUNTY BOARD OF APPEALS,

RESOLVED, that the Applicant, **BLK VENTURES, LLC** (Appeal No. 19-1693) is **GRANTED** the requested special exception consistent with the evidence presented to the Board of Appeals, subject to the following conditions:

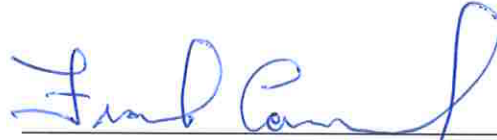
1. The Applicant shall take all of the required steps and acquire all necessary approvals, including any additional waivers necessary, required for a Major Site Plan and Landscaping Plan as spelled out in the Code.
2. The Applicant shall make applications to the Office of Permits and Inspections, and follow all of the rules, procedures and construction timelines as outlined regarding new construction.
3. The Applicant shall commence construction on the proposed improvements within eighteen (18) months from the date of this Decision.

GIVEN OVER OUR HANDS, this 12th day of JULY, 2019.

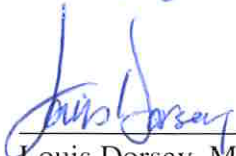
TALBOT COUNTY BOARD OF APPEALS



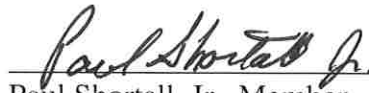
Phillip Jones, Chairman



Frank Cavanaugh, Vice-Chairman



Louis Dorsey, Member



Paul Shortall, Jr., Member



John Sewell, Member