

At a meeting of the Accomack County Board of Zoning Appeals held on the 7th day of October, 2020 in the Accomack County Administration Building Board Chambers, Room #104, in Accomac, Virginia.

1. CALL TO ORDER

MEMBERS PRESENT AND ABSENT

Board of Zoning Appeals Members Present:

Mr. Robert L. Nock, Chair
Mrs. Elizabeth Kerns, Vice Chair
Mr. Lynn P. Gayle
Mr. Harvey A. Drewer, II

Board of Zoning Appeals Members Absent:

Mr. W. Richard Bull, Jr.

Others Present:

Mr. Rich Morrison, Deputy County Administrator of Building, Planning, & Economic Dev.
Mrs. Stephanie Woods, Administrative Assistant of Building, Planning & Economic Dev.
Mr. Chris Daley, Zoning Enforcement
Ms. Lisa Nottingham, Applicant
Ms. Betsy Jester, Applicant
Ms. Gail Milburn, Applicant

DETERMINATION OF A QUORUM

There being a quorum, Chairman Nock, called the meeting to order at 10:00 a.m.

2. ADOPTION OF AGENDA

On a motion made by Mr. Gayle and seconded by Mrs. Kerns, the Board of Zoning Appeals voted unanimously to adopt the agenda, with the corrected date of October 7, 2020.

3. MINUTES

A. August 5, 2020: *On a motion made by Mrs. Kerns and seconded by Mr. Gayle, the Board of Zoning Appeals voted unanimously to approve the August 5, 2020 meeting minutes as presented.*

4. OLD BUSINESS

There was no old business.

5. NEW BUSINESS (PUBLIC HEARINGS)

A. SUPV-000067-2020 – Lisa Nottingham & Betsy Jester

The applicant is requesting two (2) items:

(1) A Special Use Permit request to place an Accessory Dwelling on her property pursuant to Accomack County Code Section 106-53 (22), which states, “Dwelling, accessory, on lots with a minimum area of five acres, or on nonconforming lots with a minimum area of 60,000 square feet. Accessory dwellings shall be one (limited to one per lot and two) permitted with an occupied main dwelling”. The property is located at 29010 Parks Farm Road, Temperanceville, VA and is zoned Agricultural.

(2) A Variance request of 88 square feet from the maximum square footage of 1,200 allowed pursuant to the Accessory Dwelling definition in the Accomack County Code of Ordinances. Mrs. Nottingham is proposing to place a 1,288 square foot accessory dwelling on her property. The property is located at 29010 Parks Farm Road, Temperanceville, VA and is zoned Agricultural.

Mr. Morrison introduced the request from Ms. Nottingham and Ms. Jester. Mr. Morrison informed the Board that the two parcels (41-A-71D & 41-A-67) have now been combined to make a single 6 acre parcel. Chairman Nock invited Ms. Nottingham up to speak and swore her in. Ms. Nottingham informed the Board that she would like to put an accessory dwelling on her property for her mother, and that the doublewide has already been purchased, and that the Health Department has already approved for the well & septic.

Mrs. Kerns inquired if Ms. Nottingham would have any issue putting a condition on the motion. Ms. Nottingham stated that she will not be renting out the residence in the event of her mother's passing, and that though she would prefer not to it could be moved as well. Mr. Gayle inquired as to the exact location of the accessory dwelling on the property. Mrs. Woods was able to show Mr. Gayle on the various site plans where the building would be placed.

On a motion made by Mr. Gayle and seconded by Mrs. Kerns the Board of Zoning Appeals voted unanimously to approve the Special Use Permit portion of SUPV-000067-2020 for Parcel's 41-A-67 and 41-A-71D pursuant to Accomack County Code Section 106-53(22) to permit an accessory dwelling on the property, with the condition that it is only to be used for a family member.

The Board opened discussion for the need for an 88 square foot variance due to the definition of an accessory dwelling limiting the dwelling size to 1,200 sq. ft. and the proposed dwelling is 1,288 sq. ft. Mrs. Kerns stated that that is the standard size of a double wide and therefore she feels the variance is warranted.

On a motion made by Mr. Gayle and seconded by Mrs. Kerns the Board of Zoning Appeals voted unanimously to approve the Variance portion of SUPV-000067-2020 for Parcel's 41-A-67 and 41-A-71D to allow for an accessory dwelling of 1,288 square feet.

B. VAR-000060-2020 – Cindy Milburn Riffert & Gail Milburn

A hearing initiated by Cindy Milburn Riffert to request a variance of seven (7) feet from the height and setback regulations pursuant to Accomack County Code Section 106-59 (4) to place a two story modular accessory structure within three (3) feet of the rear lot line. Accomack County Code Section 106-59 (4) states that "No accessory building which is within ten (10) feet of any lot line shall be more than on-story or twelve (12) feet high". The property is located at 26084 Saxis Road, Temperanceville, VA and is zoned Agricultural.

Chairman Nock invited Ms. Gail Milburn up to speak and swore her in. Ms. Milburn gave a brief description of the request. Mr. Gayle requested that Mr. Morrison weigh in on the case at this time. Mr. Morrison went over the request detailing why the location that Ms. Milburn chose has been selected. Ms. Milburn agreed and stated their current septic system was put in when the house was originally bought and is old. She stated that they are leaving an area of their property open in the event that the septic needs to be replaced. Mrs. Kerns offered the solution of putting the shed in the place reserved for a new septic system if needed since the Milburn's are unsure at this time if one will be needed. Mrs. Kerns stated that if one is needed they could then simply move the shed. Ms. Milburn was not in favor of this idea.

Ms. Milburn stated that her brother (who owns the parcel behind her) has given permission for the shed in question to be 3 feet over the lot line. Mr. Gayle stated that she cannot split the lot lines. Ms. Milburn stated that it doesn't go over the lot line but that the shed would butt right up against the lot line. Ms. Milburn continued that due to the Coronavirus Pandemic there has been a severe delay on the delivery of the proposed accessory structure and that her brother's house may arrive prior to it. Mr. Morrison stated that if the building comes first it could change the entire situation to allow the Milburn's to then place the shed on their brother's property without a variance as long as they meet all required setbacks.

Chairman Nock expressed that he feels there are still too many moving pieces on this request and that he feels that the Board is unable to determine a decision at this time. Mr. Gayle verified with staff that if Ms. Milburn decided to put the shed on their brother's property they would not need a variance. Ms. Woods responded that as long as they are able to meet all required setbacks they would not need a variance. Mr. Morrison stated that the best course of action on this case at this time, would be to postpone the case to allow for the Milburn's to decide a plan of action, due to the potential of their brother's doublewide being delivered before the shed. The Board agreed with Mr. Morrison's suggestion.

On a motion made by Mrs. Kerns and seconded by Mr. Drewer the Board of Zoning Appeals voted unanimously to postpone action on case VAR-000060-2020 for the application for a variance to the setback requirements until an updated site plan can be submitted.

6. OTHER MATTERS

Mr. Morrison informed the Board that he and Chairman Nock had a meeting where they discussed the process moving forward now that Mrs. Katie Nunez had resigned and would no longer be staffing the BZA. Chairman Nock informed the other Board members some of the items that were discussed during that meeting. The Board members all expressed their willingness to continue to move forward and uphold the County Ordinance and the State Regulations.

7. NEXT MEETING

The next regular Board of Zoning Appeals meeting is scheduled for Wednesday, November 4, 2020 at 10:00 a.m. in the Accomack County Board Chambers, Room 104, in Accomac.

8. ADJOURNMENT

On a motion made by Mrs. Kerns and seconded by Mr. Drewer the Board of Zoning Appeals voted unanimously to adjourn the meeting.

The meeting was adjourned at 11:00 a.m.

Mr. Robert Nock, Chair

Prepared by Stephanie Woods
Planning & Zoning
County of Accomack