

At a meeting of the Accomack County Board of Zoning Appeals held on the 4<sup>th</sup> day of November, 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

Mr. Lynn P. Gayle

Mr. Harvey A. Drewer, II

**Board of Zoning Appeals Members Participating Electronically:**

Mr. W. Richard Bull, Jr.

**Board of Zoning Appeals Members Absent:**

Mrs. Elizabeth Kerns, Vice Chair

**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 Officer

Mr. Horace Kelley, 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. Drewer and seconded by Mr. Gayle, the Board of Zoning Appeals voted unanimously to adopt the agenda.**

**3. MINUTES**

**A. October 7, 2020: *On a motion made by Mrs. Kerns and seconded by Mr. Gayle, the Board of Zoning Appeals voted unanimously to approve the October 7, 2020 meeting minutes as presented.***

**4. OLD BUSINESS**

Mr. Morrison updated the Board on case VAR-000060-2020 from the Milburn family. Mr. Morrison stated that the Milburn's are looking to place the shed in a conforming location on another lot. Once the Milburn's have officially notified staff of their intent, staff will ask that they withdraw their case.

***On a motion made by Mr. Gayle and seconded by Mr. Drewer the Board of Zoning Appeals voted unanimously to postpone the public hearing on the Milburn case, VAR-000060-2020.***

**5. NEW BUSINESS (PUBLIC HEARINGS)**

**A. VAR-000069-2020: Horace Kelley – Tax Map #'s 12-A-20, 12-A-20B, 12-A-20, 12-A-20D, 12-A-21**

A public hearing initiated by Horace Kelley to request numerous variances from the requirements outlined in Section 106-232 of the Accomack County Municipal Code (Poultry), to allow for modification of property lines, and the sale of confined poultry operation. The confined poultry operation was constructed prior to the currently adopted ordinance. The property is located at 3459 Kelly Road, New Church, VA and is zoned Agricultural.

Mr. Morrison introduced the request stating that this case is complicated, due to the fact that Mr. Kelley is looking to redraw the lot lines. Currently, the confined poultry farm is non-conforming under the old ordinance. Mr. Morrison stated that should the Board choose to approve either of the lot line setbacks, they will then need to also approve the variance for the density change. Mr. Morrison informed the Board that secondary to that they have a decision to make concerning whether to have the farm remain non-conforming after approving the initial three (3) variances; or the Board can approve all variances as outlined by staff to make the farm legal under today's ordinance standards. Mr. Morrison put it to the Board, if they would like to require some sort of buffer due to the density changes.

Mr. Nock stated that he would like to see the poultry operation come legal and conforming. Mr. Gayle stated that due to the fact that this is not a new operation and was built before the regulations changed, that he agreed with Mr. Nock on making the operation conforming. Mr. Bull stated that he prefers the simple method if possible.

Mr. Nock invited Mr. Kelley to speak and swore him in. Mr. Kelley stated that he and his son live near the farm, and plan to stay where they are with no intentions of moving. Mr. Kelley gave a brief history of the poultry operation and how the property came to be divided the way it is now. Mr. Kelley stated that he has a potential buyer ready to buy the farm. Mr. Gayle inquired if the land north of the poultry farm is currently under cultivation by the Kelley family. Mr. Kelley stated that yes it is and they plan on continuing to cultivate.

Mr. Drewer inquired as to what, if any, difference it would make to the surrounding property owners. Mr. Kelley informed him that allowing him to redraw the property lines would cause no issue with the surrounding property owners, as it would cause Mr. Kelley to be the primary adjacent property owner. Mr. Drewer stated that with nothing moving in there, and it being an existing farm, that Mr. Kelley should not be punished for the regulations changing over time. Mr. Bull agreed stating that he would like to see the farm land stay farm land.

Mr. Nock inquired about the potential buffer requirement. Mr. Morrison stated that there is no buffer requirement since it is a non-conforming poultry operation. Mr. Morrison indicated that should the Board decide to require a buffer, it should be installed along the lot lines that face Kelly Road along the southern area. Mr. Kelley informed the Board

that some of the area is required per Perdue to be used as work area for getting the chickens.

***On a motion made by Mr. Gayle and seconded by Mr. Drewer the Board of Zoning Appeals voted unanimously to approve the following three (3) variances:***

- 1. A variance of 41 acres pursuant to Accomack County Code Section 106-232(f)(2).***
- 2. A variance of 150 feet from the northern property line that borders parcel #12-A-20 pursuant to Accomack County Code Section 106-232(f)(5)(c).***
- 3. A variance of 150 feet from the southern property line that borders parcel #12-A-20 pursuant to Accomack County Code Section 106-232(f)(5)(c).***

***The evidence cited by the Board of Zoning Appeals includes:***

- The Kelley farm is a century farm and the variances provide for the preservation of the Kelley farm.***
- Active farm land, which is part of the Kelley farm will continue to be farmed due to the gratifying of the variances.***
- The variances allow for the timbered land to remain part of the Kelley Farm and serve as a screening buffer for the poultry operation.***

## **6. OTHER MATTERS**

Mr. Morrison informed the Board that staff advertised the public hearing for Mr. Kelley in such a way to allow the Board the option to either approve the minimal needed for Mr. Kelley to be able to section off portions of the property or the maximum needed to bring the confined poultry farm into compliance. Mr. Morrison then inquired of the Board if this was acceptable to them or if they would prefer staff to do the legal notices differently leaning towards always doing the minimum or maximum. Mr. Nock stated that each case will be governed by its own merit and not based off of any sort of precedence. The other Board members agreed stating that staff should continue to go forward on a case by case basis.

## **7. NEXT MEETING**

The next regular Board of Zoning Appeals meeting is scheduled for Wednesday, December 2, 2020 at 10:00 a.m. in the Accomack County Board Chambers, Room 104, in Accomac.

## **8. ADJOURNMENT**

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

The meeting was adjourned at 10:40 a.m.

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Mr. Robert Nock, Chair

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Prepared by Stephanie Woods  
Planning & Zoning  
County of Accomack