

At a meeting of the Accomack County Board of Zoning Appeals held on the 2nd day of November 2022 in the Accomack County Administration Building Board Chambers, Room #104, in Accomac, Virginia.

1. CALL TO ORDER

A. MEMBERS PRESENT AND ABSENT

Board of Zoning Appeals Members Present:

Mrs. Elizabeth Kerns, Chairman
Mr. Lynn P. Gayle
Ms. Gracie Milbourne
Mr. W. Richard Bull, Jr.

Board of Zoning Appeals Members Absent:

Mr. Harvey A. Drewer II, Vice Chairman

Others Present:

Mr. Paul Seltzer, Deputy Director
Mr. Chris Daley, Code Enforcement Officer II
Ms. Shawnta McCain, Administrative Assistant II
Ms. Maxie Brown, Interim Zoning Administrator

B. DETERMINATION OF A QUORUM

There being a quorum, Chairwoman Kerns called the meeting to order at 10:01 a.m.

2. ADOPTION OF AGENDA

On a motion made by Mr. Bull and seconded by Mr. Gayle, the Board of Zoning Appeals voted unanimously to adopt the agenda as presented.

3. MINUTES

On a motion made by Mr. Gayle and seconded by Ms. Milbourne, the Board of Zoning Appeals voted unanimously to approve the October 5, 2022 meeting minute.

4. OLD BUSINESS

A. Revocation of April 15, 2015 SUP – RT. 13 Auto – Tax Map #79-A-17A

A continuation of the Revocation of April 15, 2015 SUP – RT. 13 Auto – Tax Map #79-A-17A. A hearing initiated by the Accomack County Board of Zoning Appeals pursuant to Accomack County Code Section 106-25(5), which states the Board of Zoning Appeals shall have the power to revoke a special use permit if the board determines that there has not been compliance with the terms and conditions of the permit. No special use permit may be revoked except after notice and hearing as provided in Code of Virginia, § 15.1-495. RT. 13 Auto Repair is in violation of the SUP it was awarded in April 2015 by operating an unpermitted automobile graveyard at this location. It is located at 19045 Lankford Hwy, Parksley, Tax Map #79-A-17A and is zoned Agriculture.

Paul Seltzer gave an overview of this case. Mr. Seltzer mentioned that in the September meeting, members of the BZA encouraged the current operators to apply for a new Special Use Permit as they are currently operating under the one that was granted to the previous operator. In the event they did not apply, we left the public hearing open at the September meeting. If the BZA is still inclined, we can now move on to close the public hearing and move on to the new business as they have applied for their Special Use Permit.

On a motion made by Mr. Bull and seconded by Mr. Gayle, the Board of Zoning Appeals voted unanimously to close the public hearing of this revocation.

5. NEW BUSINESS (PUBLIC HEARINGS)

A. SUSE-000417-2022 – Wells Gregoire – Tax Map #79-A-17A

A special use permit application request by Wells Gregoire of RT. 13 Auto pursuant to Accomack County Code Section 106-53(7), which permits Light Industry in the Agriculture District. The applicants are looking to continue using the auto repair business that is currently located on the property. The property is 19045 Lankford Hwy, Parksley, Tax Map #79-A-17A and is zoned Agriculture.

Chris Daley gave an overview of this case. Mr. Wells Gregoire was invited up to speak and sworn in. Mr. Gregoire made a statement to his concerns about the restrictions that would be added to the SUP and that those restrictions may be a little too strict for their business. Mr. Gregoire stated that he installed the fencing around the property but was concerned that no vehicles being allowed out in the front would look like the business is closed. The fence was added for the unlicensed vehicles and other vehicles that are waiting for maintenance. Mrs. Kerns asked a question in reference to how many unlicensed vehicles were currently on the property; Mr. Gregoire stated that there are about three (3) unlicensed vehicles currently on the property. Mr. Gregoire mentioned that most vehicles become unlicensed due to decal expiring or people who want to sell a car that is broke down. Mr. Bull asked the question, “Why would someone buy a car and bring it to you as opposed to buying a car and driving it?” Mr. Gregoire mentioned that people purchase vehicles with problems and they do not want to fix it so they sell it to anyone and the person who purchased the vehicles brings it to them to get it fix. Mr. Gregoire stated this is why some vehicles on the property are unlicensed, because the original owner of the vehicle sold it and removed their tags.

Mr. Bull stated that part of the reason for the meeting was the issue that there were numerous unlicensed or unregistered vehicles on the property. Mr. Gregoire stated that part of the reason for the meeting was that there was too many vehicles visible from the highway, which was the reason for adding the fences to store vehicles waiting for maintenance and to store vehicles that were unlicensed or untagged. Mr. Bull mentioned that it was never an issue when the previous owner ran the shop and Mr. Gregoire responded that the previous owner sold to them because their business was not as successful as they would have liked. Mr. Bull stated his concerns about the numbered of vehicles on the property not being worked on or able to move makes the business look like an automotive graveyard and asked why they would keep allowing people to drop-off their cars in the middle of the night with not time frame for fixing and no information as to who the car belongs to or what is wrong with it. Mr. Gregoire stated that there were many cars there because they will get tow companies that drop off cars in the middle of the night and that those

companies or the owners may not call until the next day or the day after to inform them of the car that was left at the shop.

Toby Gregoire was called up and sworn in. Mr. Toby Gregoire stated that most of the regular shops around only fix minor issues and at their current shop is doing a lot more, they are doing mainly engine issues, which is a longer process for vehicles and that is why there are so many cars on the property. Mr. Wells Gregoire expressed his in concerns that there are other shops or businesses that have more vehicles on their property but those same businesses do not have a fence up. Mr. Wells Gregoire stated that he felt targeted as if the County did not want his business to succeed because they are being forced to put up a fence that they can barely afford but they are doing so to keep their business open. Mr. Gregoire stated that they always follow what the County is asking them and it seems like every year they are receiving a new notice about something else.

Mr. Gayle stated that there has been a staff shortage over the past couple of years, which is why they County may have been unable to monitor the property, as they should. Mr. Gayle stated that the goal of the meeting was to keep them in business by helping them make the changes and corrections needs to run the business sufficiently. Mr. Gayle stated he noticed the work ethic of Mr. Gregoire and his associates as he has witnessed the business working late hours. Mr. Gayle addressed the conditions for the SUP as far as hours of operation with it being a business location on the corner, no residences around and nothing being located across the street; Mr. Gayle personally does not see any reason there should be restrictions of the hours of operation and feels that if they wanted to work Saturday or Sunday, they should be allowed.

Mr. Carl Snow was invited up to speak and sworn in. Mr. Snow stated that he has 2 vehicles currently on the property that are in needed of drastic repairs, one being a foreign vehicle which they are currently looking for parts for that vehicle. The vehicle has been there a while and is registered but because of the supply chains and post pandemic issues, it has been hard to find parts. Mr. Snow stated that if he were to get the vehicle towed back to his home until they were able to get the parts, it would be overly expensive and costly to do so as the vehicle would need to be towed back to the shop once the parts were available.

Mr. Ryan Dean was invited up to speak and sworn in. Mr. Dean stated they Mr. Wells was honest and a hard worker. Mr. Dean stated that there are many vehicles there, that if they were not fixing them they would not be getting fixed and instead would be trashed or totaled. Mr. Dean stated that he is guilty of dropping of his vehicles for weeks at a time and picking it up when he returns. He stated the Mr. Wells and his associates were accommodating to the community, that some people may take advantage of that, and that he can attest to being one of the people. Ms. Jessica Dean was invited up to speak and sworn in. Mrs. Dean stated that she wanted to testify to their integrity and that as a woman she felt comfortable trusting them with her vehicle and trusting that they would not take advantage of or exploit her when it comes to repairs needed to her vehicles. She stated that she and her husband have used their services frequently.

Mr. Wells Gregoire read off some codes that he felt were applicable to his business. Mr. Paul Seltzer informed Mr. Wells that the codes he was reading referred to codes based on vehicles and the Sheriff's department side of the ordinance and that he should follow codes 106, the zoning codes and that is what the Board of Zoning Appeals deal with which is why this meeting is taking

place. Mr. Seltzer stated the definition of an “automobile graveyard”; automobile graveyard means any lot or place, which is exposed to the weather upon which more than five motor vehicles of any kind are located and are incapable of being operated in which it would not be economically practical to make operative or are not currently licensed. Mr. Seltzer stated that automobile graveyards are not authorized in any zoning district in the County. Mrs. Kerns asked if it counted because it was all fenced in. Mr. Seltzer responded that it was still exposed to the weather. Mr. Seltzer stated that the easiest fix would be to have licensed vehicles and work on scheduling when it comes to more vehicles, if you know you have a big backlog.

On a motion made by Mr. Gayle and seconded by Mr. Bull, the Board of Zoning Appeals moved to revoke the existing SUP at Tax Map #79-A-17A. The Accomack County Board of Zoning Appeals revokes the SUP that was award for this parcel at the April 2015 BZA meeting.

On a motion made by Mr. Gayle and seconded Mr. Bull, the Board of Zoning Appeals voted unanimously to approve Special Use Permit SUSE-000417-2022. The Accomack County Board of Zoning Appeals approves a Special Use Permit, for Tax Map #79-A-17A, for light industry, being the use of an auto repair facility permitted in Section 106-53(7) of the Accomack County Code of Ordinances.

This Special Use Permit is approved with the following conditions:

- 1. The fence that is located on the parcel must be completed and maintained and the vehicles that are unlicensed and not being immediately repaired shall be kept inside the garage or inside the fenced area and be parked out front.***
- 2. No more than five (5) unlicensed vehicles may be stored on the parcel at any one time and the storage of junk vehicles for parts is prohibited.***

B. VAR-000413-2022 – Janice Sutton – Tax Map #12A-A-24A

A hearing initiated by Janice Sutton to request a Variance of thirty four (34) square feet pursuant to Accomack County Code Section 106-178(n)(1), which states the following size business signs shall be permitted by right only on the specific premises where the business is located, subject to other applicable provisions of this article. (1) One sign which shall not exceed 96 square feet. The applicant is proposing to place a double-sided sign on the parcel, which totals 130 square feet. This parcel is located at 30532 Depot Street, New Church, is Tax Map #12A-A-24A and is zoned Agriculture.

Ms. Janice Sutton was invited up to speak and sworn in. Ms. Sutton stated that she wanted the sign on the property to enhance the church. The sign had already been purchased for the community to see from the North and South travel directions. The main purpose of the sign will be for advertisement and events at the church for the community. With previous events, someone would get a sign made and would hang it from the ramp of the front of the building but because of the weather it would sometimes be too much to get the signs to stay or too much time taken to get the sign up. Ms. Sutton stated that the congregation is growing and the sign would help to keep it growing a lot more.

On a motion made by Mr. Bull and seconded by Ms. Milbourne, the Board of Zoning Appeals voted unanimously to approve Variance application VAR-000413-2022, a Variance of thirty four (34) square feet pursuant to Accomack County Code Section 106-178(n)(1), which states the following size business signs shall be permitted by right only on the specific premises where the business is located, subject to other applicable provisions of this article. One (1) sign, which shall not exceed 96 square feet. This variance is for Tax Map #12A-A-24A.

C. VAR-000414-2022 – Harry Parker – Tax Map #102-13-B

A variance application request by Harry Parker pursuant to Accomack County Section 106-57, which states the minimum frontage for permitted uses, shall be 150 feet at the setback line. The applicant is performing a family subdivision and the parcel does not have any frontage on a public street. This parcel is located at 30250 Back Road, Melfa, and Tax Map #102-13-B.

On a motion made by Ms. Milbourne and seconded by Mr. Gayle, the Board of Zoning Appeals voted unanimously to continue this case until the December 7, 2022 hearing.

D. VAR-000415-2022 – Robert Corbin – Tax Map #70-A-137

A hearing initiated by Robert Corbin to request the following Variances: (1) a Variance of 21.86 feet pursuant to Accomack County Code Section 106-56 which states structures on all public rights-of-way shall be set back 50 feet or more from the edge of the right-of-way. (2) a Variance of 10 feet from Accomack County Code Section 106-58(a) which states the minimum side yard for each main structure shall be 15 feet and the total width of the two required side yards shall be 30 feet or more. The applicant wants to replace the dwelling that was destroyed by fire with a new manufactured home. The parcel is located at 15357 Metompkin Rd, is Tax Map #70-A-137 and is zoned Agriculture.

Mr. Robert Corbin was invited up to speak and sworn in. Mr. Corbin stated that the home has been in the family for thirty plus years and this his father passed about four years ago and that the house had gotten too bad of shape, which resulted in getting the home demo'd. Mr. Corbin stated that he got the property surveyed and the original survey was incorrect, which resulted in him having to move some of the buildings on the property to the backside closer to the bounty line. Mr. Corbin stated the buildings were moved so that he would be able to get a home placed on the lot. The home that Mr. Corbin originally wanted was too big, which he why he dropped back down to a 40x28 dwelling. Because the position of the lot and the home being placed, moving the proposed dwelling too far back would cause him to be out bounds, which is why he is requesting the variance for the setback closer to the road so that the proposed dwelling would be placed where the original house use to be.

Mr. Chuck Shade was invited up to speak and sworn in. Mr. Shade stated that the variances they are requesting are the minimum for the Mr. Corbin to be able to place and enjoy his home. Mr. Shade stated that originally, Mr. Corbin chose a bigger home but with the survey and setbacks, they pretty much got him into the smallest home they could put him into.

On a motion made by Ms. Milbourne and seconded by Mr. Bull, the Board of Zoning Appeals voted unanimously to approve the following Variances:

1. *A Variance of 21.86 feet pursuant to Accomack County Code Section 106-56, which states structures on all public rights-of-way, shall be set back 50 feet or more from the edge of the right-of-way.*
2. *A Variance of 10 feet from Accomack County Code Section 106-58(a), which states the minimum side yard for each main structure shall be 15 feet and the total width of the two required side yards shall be 30 feet or more.*

These Variances are for Tax Map #70-A-137.

E. VAR-000416-2022 – Heidi Ontiveros – Tax Map #69-9-C1

A hearing initiated by Heidi Ontiveros to request a Variance of one hundred and fifty (150) feet pursuant to Accomack County Code Section 106-57, which states the minimum frontage for permitted uses shall be 150 feet at the setback line. The applicant wants to build a new dwelling on the unimproved parcel, which does not have a frontage on a public street. This unimproved parcel is located on Gargatha Landing Rd, Tax Map #69-9-C1 and is zoned Agriculture.

Ms. Heidi Ontiveros was invited up to speak and sworn in. Ms. Ontiveros stated her father purchased the property originally back in 2006 when they were split into parcels. Ms. Ontiveros received the property in 2017 but not ready to build on the property and is now ready to build something on the property now that she has the means to do so. Ms. Ontiveros stated that there are several properties nearby that do not have road frontage, and she has spoken to the owner of the property to the left of hers and they have accommodated the easement to access the property. Ms. Ontiveros stated they were clearing trees and leveling out the lot and the neighbors were in agreement with that. Ms. Ontiveros stated that she is coming up on many obstacles now from the parcel being split in the past and would appreciate if she were granted the 150 feet variance.

On a motion made by Mr. Gayle and seconded by Mr. Bull, the Board of Zoning Appeals voted unanimously to approve the following Variance: a Variance of one hundred and fifty (150) feet pursuant to Accomack County Code Section 106-57, which states the minimum frontage of permitted uses shall be 150 feet at the setback line. This Variance is for Tax Map #69-9-C1.

6. OTHER MATTERS

Introduction of Maxie Brown, the interim Zoning Administrator.

7. NEXT MEETING

The next regular Board of Zoning Appeals meeting is scheduled for Wednesday, December 7, 2022 at 10:00 a.m. in the Accomack County Board Chambers, Room 104, in Accomac.

8. ADJOURNMENT

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

Mrs. Elizabeth Kerns, Chairwoman

Prepared by
Planning & Zoning County of Accomack

DRAFT