



Accomack County Board of Zoning Appeals

Elizabeth Kerns, Chairwoman
Lynn P. Gayle
Jerrey L. Holland
Gracie Milbourne
Gary L. Miller

At a meeting of the Accomack County Board of Zoning Appeals in the County Administration Building,
Board Chambers, Room 104, 23296 Courthouse Avenue, Accomac, VA

Minutes for Wednesday, September 6, 2023, 10:00 AM

DRAFT

1. CALL TO ORDER- Chairwoman Kerns called the meeting to order at 10:00am.

A. Members Present and Absent

Board of Zoning Appeals Members Present:

Ms. Elizabeth Kerns, Chairwoman
Mr. Harvey Drewer II, Vice Chairman
Mr. Lynn P. Gayle
Ms. Gracie Milbourne
Mr. Gary Miller
Mr. Jeffrey Holland

Board of Zoning Appeals Members Absent: None

Others Present:

Mr. Lee Pambid, Deputy County Administrator
Mr. Paul Seltzer, Deputy Director
Ms. Chontese Ridley, Planner I

2. DETERMINATION OF A QUORUM

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

3. INTRODUCTIONS

Mr. Lee Pambid, Deputy County Administrator, wanted to introduce the two new board members. Two members rotated off the board in the last couple of months, Mr. Bull and Mr. Drewer. Their successors are Mr. Gary Miller of Atlantic, Virginia and Mr. Jeffrey Holland of Pitts Landing, Virginia. Both had been sworn in by the Circuit Court.

Chairwoman Kerns welcomed them both to the board and also said there was a new planner. Mr. Pambid confirmed that was correct.

Mr. Pambid introduced Ms. Chontese Ridley, formally the Environmental Permit Specialist for Environmental Programs, as an internal hire for the Planner I position. Ms. Ridley has a Bachelor's Degree from Morgan State University, (Baltimore, MD), and a native of the Eastern Shore of Virginia. Mr. Pambid said that Ms. Ridley would continue to contribute to her community and her chosen field of planning.

45 **4. VICE CHAIR ELECTION**

46 Chairwoman Kerns said the board had an election and that they needed a nomination for Vice
47 Chair to fill the position Mr. Andy Drewer.

48
49 Mr. Gayle moved, seconded by Mr. Miller, to nominate Ms. Milbourne as Vice Chair. No
50 other nominations were made.

51
52 **Chairwoman Kerns called for a vote and the Board of Zoning Appeals voted**
53 **unanimously to elect Ms. Milbourne as Vice Chair.**

54
55 **5. ADOPTION OF AGENDA**

56 *On a motion made by Mr. Gayle and seconded by Ms. Milbourne, the Board of Zoning Appeals*
57 *voted unanimously to approve the agenda.*

58
59 **6. MINUTES**

60 *On a motion made by Mr. Gayle and seconded by Ms. Milbourne, the Board of Zoning Appeals*
61 *voted unanimously to approve the July 12, 2023 meeting minutes.*

62
63 **7. PUBLIC HEARINGS**

64 **A. SUSE- 000527-2023: Daniel Whealton – 34000 Block of Watts Bay Drive, Wallops**
65 **Island**

66 A hearing initiated by Mr. Dan Whealton to request a Special Use Permit per Accomack
67 County Code Section 106-53(27) which permits A use of land not specifically listed as a use
68 permitted by right or by special exception-special use in the agricultural district regulations,
69 which is clearly similar and compatible with the uses listed therein. The applicant wishes to
70 build a 40'x80' pole barn on this unimproved parcel. The 3.44 acre site is located along the
71 south line of Watts Bay Drive (private road), approximately 3,730 feet east of its intersection
72 with Atlantic Road and is Tax Map # 43-6-15.

73
74 The parcel is zoned Agriculture and is located partially within the Chesapeake/ Atlantic
75 Preservation Area RPA, and the Airport Overlay District.

76
77 Mr. Pambid gave an overview of the case adding that the site was zoned agriculture and that
78 the future land use was also agriculture. It was currently a vacant home site that was wooded.
79 Mr. Pambid said the adjacent land uses were either agriculture or residential.

80
81 The site layout had been reviewed administratively and everything would be outside of any
82 environmental constraints.

83
84 The proposed shed was going to be built in advance of them building a single family dwelling,
85 (moving from Pocomoke, MD to this area) and they would like to store some of their
86 belongings.

87
88 Mr. Pambid said he was going to read several considerations that the board should take into
89 account as they deliberated on this Special Use Permit. It would be the same for the other
90 Special Use Permits throughout the meeting.

91
92
93

94 **Code Section 106-253: Powers of the Board of Zoning Appeals**

- 95 *1. Whether the proposal is compatible with the general character of the surrounding*
96 *neighborhood, and creates an attractive and harmonious community.*
97 *2. Whether the proposal has any effect on scenic, historic and waterfront areas, and the effects*
98 *on property rights and values.*
99 *3. Whether additional conditions are necessary to protect the health, safety, convenience and*
100 *welfare of the general public.*

101
102 Mr. Pambid said that staff findings were that the site plan met ordinance and setback
103 requirements. Additionally, it would benefit the applicants to let them store their household
104 valuables while selling their current home and constructing their new home on the property.

105
106 Mr. Pambid said staff recommended approval of the Special Use Permit with the three
107 conditions listed putting emphases on condition #3:

- 108 ▪ *This Special Use Permit shall expire two (2) years after the Board of Zoning Appeals’*
109 *approval unless a foundation inspection has been conducted or an extension has been*
110 *granted by the Board of Zoning Appeals.*

111
112 Mr. Daniel Whealton appeared before the Board of Zoning Appeals and was sworn in by
113 Chairwoman Kerns.

114
115 Mr. Whealton said, if possible, he would like to amend the size of the pole barn to 50 square
116 feet x 72 square feet. Mr. Pambid stated a 40’x80’ pole barn was advertised and could not be
117 amended during the meeting. Mr. Whealton said he would move forward with what he had
118 for now.

119
120 Mr. Whealton gave some background information on himself and his family stating that he
121 was originally from Chincoteague, Virginia. Adding that after some recent health diagnosis
122 they wanted to scale down.

123
124 Mr. Whealton said they wanted to build the pole barn to move all their stuff from their current
125 pole barn to this area.

126
127 Chairwoman Kerns asked Mr. Whealton if he was going to contract out for the construction
128 of his home, and Mr. Whealton said yes.

129
130 ***On a motion made by Ms. Milbourne and seconded by Mr. Gayle, the Board of Zoning***
131 ***Appeals approves Special Use Permit SUSE-000527-2023 for a 40’x80’ pole barn on land***
132 ***not specifically listed as a use permitted by right or by special exception-special use in the***
133 ***agricultural district regulations, which is clearly similar and compatible with the uses listed***
134 ***therein by Section 106-53(27) of the Zoning Ordinance for Tax Map #43-6-15.***

135
136 ***The Special Use Permit (SUP) is approved with the Staff’s recommended conditions:***

- 137 ***1. The applicant is permitted to store the travel trailer on the parcel for no longer***
138 ***than 2 years.***
139 ***2. If the applicant wishes to continue storing the travel trailer on the parcel after the***
140 ***2 year time limit, he must make a new SUP application at least 2 months prior to***
141 ***the expiration date.***
142 ***3. The travel trailer shall not be used for habitation on this parcel.***

143 **B. SUSE- 000534-2023 – Rajkumar Thangavelu - 36000 block of Lankford Hwy, Belle**
144 **Haven**

145 A hearing initiated by Rajkumar Thangavelu to request a Special Use Permit per Accomack
146 County Code Section 106-179 which states it shall be unlawful to erect a billboard, as
147 described in section 106-1 of this chapter, anywhere within the jurisdiction of the county
148 without first obtaining a special use permit from the board of zoning appeals. The applicant
149 wishes to install 5-for-rent billboards on this unimproved parcel. The 21.9 acre site is located
150 on the southbound side of Lankford Hwy, approximately 1000 feet north of the intersection
151 of King St and is Tax Map #119C-6-5. The parcel is zoned General Business.

152
153 Mr. Pambid gave an overview of the case stating that the future land use recommendation was
154 village development and the zoning was commercial. The current use was general business,
155 the adjacent use was commercial and agricultural, and the uses were going to be commercial
156 and vacant.

157
158 Mr. Pambid said this fronts on RT. 13 and each billboard would be 12 square feet by 24 square
159 feet, spaced 300 square feet apart, (per VDOT regulations), and all wooded to the rear.

160
161 Mr. Pambid said the same ordinance considerations applied and there were some additional
162 considerations as well pursuant to code section **106-252 (4)**:

- 163 *1. Whether the proposed use is in conformance with good zoning practice and with state*
164 *and local laws, ordinances and regulations.*
- 165 *2. Consider whether granting the special use permit, with or without conditions, is*
166 *justified by public necessity and convenience.*

167
168 Mr. Pambid said staff findings were as follows:

- 169 **1.** The installation of the billboards would generate revenue for the applicant, but that
170 was not a condition for issuance of a Special Use Permit. The Board of Zoning Appeals
171 did not have to take into account the profitability of a proposal.
- 172 **2.** Although it was zoned for business the character of the area was rural with small towns
173 and villages with a mix of land uses.
- 174 **3.** RT. 13 is traveled by a mix of local and through traffic which had the potential to
175 create a dangerous situation. That amount of billboards concentrated in one area could
176 create more of a distraction than a convenience for the traveling public.
- 177 **4.** An unfavorable precedent might be set.
- 178 **5.** Site is located in a designated village development area making billboards even more
179 incompatible.

180 Mr. Pambid said that it was staff's recommendation to deny the Special Use Permit.

181 Mr. Rajkumar Thangavelu appeared before the Board of Zoning Appeals and was sworn in
182 by Chairwoman Kerns.

183 Mr. Thangavelu said this was vacant land that he purchased a couple years ago and thought
184 he could put some billboards on it to generate some revenue.

185 Chairwoman Kerns asked Mr. Thangavelu if there was any plan to rent out the billboards out
186 to commercial businesses, and Mr. Thangavelu said yes.

187 Mr. Gayle said in regards to setting a percent, there were billboards in multiple locations on
188 the Shore, and they were restricted by general business zoning.

189 Mr. Gayle asked to confirm that they were in the process of evaluating the billboard
190 regulation? Mr. Pambid said they were actually in the process of evaluating the entire Zoning
191 and Subdivision Ordinance. When the Zoning and Subdivision Ordinance is reviewed, in this
192 case the Zoning, Mr. Pambid suggested that they look at all their signage regulations. This
193 would include whether or not they wanted to continue to allow off premises billboards.

194 Mr. Gayle said just south of there, (Exmore), there was a whole string of billboards. There are
195 also a number a businesses located beside it that might appreciate access to the signs, and it
196 was also located in the deceleration area of 45mph.

197 Mr. Pambid stated that the amount of billboards that they have detracts from the aesthetics of
198 what is said in the Comprehensive Plan. It says that Rt. 13 should be an attractive business
199 corridor.

200 Mr. Gayle said that he agreed, but business was business and there had obviously been a
201 significant investment made in the purchase of the property primarily for this use. A
202 commitment had been made and it deserved some consideration.

203 Mr. Pambid said that he would suggest that an applicant would do their due diligence talking
204 with the staff, and perhaps not signing on the dotted line, before a property is purchased and
205 knowing if what they want to do could be done. A rezoning or a special use permit were
206 discretionary actions and were not guaranteed.

207 Chairwoman Kerns wondered if they wanted to add to the string of billboards south of the
208 location. Five billboards at one time in one place was a little much.

209 Mr. Miller asked if the billboards on the north and south on the boundary line of the property
210 had any setbacks on boundary lines, and would the adjacent property owner need to be 300
211 square feet from the sign?

212 Mr. Pambid said if the adjacent property owner wanted to put up a billboard it would have to
213 be 300 square feet away from the billboard on the corner.

214 Ms. Milbourne asked if the five signs went in what would happen when the parcel is
215 developed, or if it was planned to be developed? Mr. Pambid said once the SPU was approved
216 they were allowed to have those unless they, (board), put some type of sunset condition in
217 that the billboards have to come down. Mr. Pambid said he had never seen such a condition,
218 but suggested that the billboards would detract from any future ability to develop the property
219 in a manner that would keep the village development intent.

220 Mr. Thangavelu suggested only doing the three signs that were located in the wetlands where
221 no development could take place.

222 A short discussion ensued and the board members decided to grant the three signs.

223 ***On a motion made by Mr. Holland and seconded by Mr. Gayle, the Board of Zoning***
224 ***Appeals approves Special Use Permit SUSE-000534-2023 for three billboards, as***
225 ***authorized by section 106-179 of the Zoning Ordinance which states it shall be unlawful***
226 ***to erect a billboard, as described in section 106-1 of this chapter, anywhere within the***
227 ***jurisdiction of the county without first obtaining a special use permit from the board of***
228 ***zoning appeals for Tax Map #119C-6-5.***

229
230 ***The Special Use Permit (SUP) is approved with the recommended conditions:***

- 231 ***1. Installation of the three northern signs in the wetlands area only, excluding the two***
232 ***southern signs***

233
234 **C. SUSE- 00535-2023 – Rajkumar Thangavelu – 6800 block of Lankford Hwy, New**
235 **Church**

236 The applicant requests a Special Use Permit per Accomack County Code Section 106-179
237 which states it shall be unlawful to erect a billboard, as described in section 106-1 of this
238 chapter, anywhere within the jurisdiction of the county without first obtaining a special use
239 permit from the board of zoning appeals. The applicant wishes to install 2-for-rent billboards
240 on this parcel. The 7.12 acre site is located on the southbound side of Lankford Hwy,
241 approximately 3200 feet north of the intersection of Chincoteague Rd and is Tax Map #27-A-
242 4.

243
244 Mr. Pambid gave an overview of the case adding that the future land use recommendation was
245 commercial and the current was for a mobile home park. The adjacent zoning was commercial
246 and agricultural with commercial and residential uses.

247
248 Mr. Pambid said these structures were the same as the ones they approved in Belle Haven,
249 and Mr. Pambid added that there was a mobile home park to the rear of the property.

250
251 Mr. Pambid said the zoning was general business and the future land use recommendation
252 was actually agricultural.

253
254 Mr. Pambid said the same considerations followed for this application, and that staff's
255 recommendation was to deny the Special Use Permit.

256
257 **CHAIRWOMAN KERNS OPENED THE FLOOR TO PUBLIC COMMENT**
258 Chairwoman Kerns asked if there was anyone who wished to comment on application SUSE-
259 00535-2023.

260
261 Ms. Sue Mastel, (Harborton, VA), stood before the Board of Zoning Appeals and was sworn
262 in by Chairwoman Kerns.

263

264 Ms. Mastel said she wanted to speak to the issue of precedent that the staff had raised. Ms.
265 Mastel said she drove to the area a few weeks ago and believed there was seventeen
266 billboards within a mile north of T's Corner.

267
268 Ms. Mastel said she understood the concern about supporting businesses, but one of the
269 businesses we have on the shore is tourism. Ms. Mastel said there were a lot of blank
270 billboards so there was not a tremendous or urgent need for additional billboards.

271
272 Ms. Mastel said it was creating a look for the shore that she did not think they liked. We
273 want to attract business, especially on our main corridor, but was not sure this was the look
274 they wanted to be promoting.

275
276 No one else wished to comment.

277 **CHAIRWOMAN KERNS CLOSED THE FLOOR TO PUBLIC COMMENT**

278
279 Mr. Gayle said that he understood, but that he had to be objective about it.

280
281 Chairwoman Kerns asked if there was a possibility to decrease the amount of billboards.

282
283 Mr. Thangavelu, (applicant), said the mobile home park was vacant and wanted to renovate
284 it. They have done some of the work, put a lot of money into it, but more work needed to be
285 done. Mr. Thangavelu added that there was no money coming in and he needed to pay his two
286 employees and pay bills.

287
288 Mr. Thangavelu said he was trying to think of a way to use the land to create revenue. Mr.
289 Thangavelu said some of the current billboards were empty due to the owners asking for too
290 much money to rent them.

291
292 Mr. Thangavelu said many other billboards had been approved and asked if they were making
293 a decision now to no approve billboards.

294
295 Chairwoman Kerns said it was just unusual to have the number of billboards that have been
296 requested at one time.

297
298 Mr. Pambid said billboards had been allowed in the past either by right or erected. The new
299 element there was him. Mr. Pambid said he was coming to the board with recommendations
300 for denial, which were just staff recommendations, but the decision was up to the board.

301
302 Mr. Pambid said they did not have to continue with any "precedent" to continue to allow them
303 which would give more people a reason to apply for one.

304
305 ***On a motion made by Ms. Milbourne and seconded by Mr. Holland, the Board of Zoning***
306 ***Appeals approves Special Use Permit SUSE-000535-2023 for one billboard, as authorized***
307 ***by Section 106-179 of the Zoning Ordinance which states it shall be unlawful to erect a***
308 ***billboard, as described in section 106-1 of this chapter, anywhere within the jurisdiction of***
309 ***the county without first obtaining a special use permit from the board of zoning appeals for***
310 ***Tax Map for Tax Map #27-A-4.***

311
312

313 **D. SUSE-000536-2023: Rajkumar Thangavelu – 6164 Lankford Hwy, New Church**

314 The applicant requests a Special Use Permit per Accomack County Code Section 106-179
315 which states it shall be unlawful to erect a billboard, as described in section 106-1 of this
316 chapter, anywhere within the jurisdiction of the county without first obtaining a special use
317 permit from the board of zoning appeals. The applicant wishes to install 2 for-rent billboards
318 on this unimproved parcel. The 11.92 acre site is located on the southbound side of Lankford
319 Hwy, approximately 2800 feet north of the intersection of Chincoteague Rd and is Tax Map
320 #27-A-8.

321
322 Mr. Pambid gave an overview of the case stating that the future land use recommendation was
323 commercial, the current use was vacant, and the adjacent zoning was commercial and
324 agricultural.

325
326 Mr. Pambid said these were the same structures the board reviewed and approved in the last
327 two cases.

328
329 Mr. Pambid said the same ordinance considerations followed for this case as the last two cases,
330 and that staff’s recommendation was to deny the Special Use Permit.

331
332 ***On a motion made by Mr. Gayle and seconded by Mr. Milbourne, the Board of Zoning***
333 ***Appeals approves Special Use Permit SUSE-000536-2023 for one billboard, as authorized***
334 ***by Section 106-179 of the Zoning Ordinance which states it shall be unlawful to erect a***
335 ***billboard, 106-1 of this chapter, anywhere within the jurisdiction of the county without first***
336 ***obtaining a special use permit from the board of zoning appeals for Tax Map for Tax Map***
337 ***#27-A-8.***

338
339 **E. SUSE-000536-2023: Tiffany Gelzinis – 15494 Sisco Town Rd, Painter**

340 The applicant requests a Special Use Permit per Accomack County Code Section 106-
341 53(15) which permits a two-family dwelling. The applicant wishes convert the existing
342 single family home into a duplex. The .89 acre site is located on the south side of Sisco
343 Town Rd, at the intersection of Big Pine Rd and is Tax Map #110-3-B14. The parcel is
344 zoned Agriculture.

345
346 Mr. Pambid gave an overview of the case stating that current use was a single family
347 dwelling, the proposed use was a duplex, the zoning was agriculture on all sides and the
348 uses were agriculture, residential, and woodlands.

349
350 Mr. Pambid said there were environmental constraints, it was an existing site, the proposed
351 site layout conformed to the zoning ordinance, and they will have to provide four parking
352 spaces.

353
354 Mr. Pambid said the parking spaces would be located to the rear of the property and the
355 proposal did not include any expansion of the buildings footprint.

356
357 Mr. Pambid said since this was a Special Use Permit the same ordinance considerations
358 followed as the previous cases.

362 **Code Section 106-252: Powers of the Board of Zoning Appeals**

- 363 1. *Whether the proposal is compatible with the general character of the surrounding*
364 *neighborhood, and creates an attractive and harmonious community.*
365 2. *Whether the proposal has any effect on scenic, historic and waterfront areas, and*
366 *the effects on property rights and values.*
367 3. *Whether additional conditions are necessary to protect the health, safety,*
368 *convenience and welfare of the general public.*

369
370 Mr. Pambid said the staff findings were as follows:

- 371 1. The proposed site plan met the ordinance and all set back requirements.
372 2. The additional unit will provide additional long term housing opportunities in the
373 County.
374 3. No changes will be made to the exterior of the existing residence maintaining the
375 appearance of a single family residence
376

377 Mr. Pambid said that staff was recommending approval of this application with one condition:

- 378 1. The applicant apply for and obtain all required permits from the County's
379 Building Department and VDH to allow a two-family dwelling unit.
380

381 Ms. Tiffany Gelzinis appeared before the Board of Zoning Appeals and was sworn in by
382 Chairwoman Kerns.
383

384 Ms. Gelzinis said the property was purchased out of foreclosure and did need to be fully
385 renovated. It was about 2,600 square feet and was purchased as a long term rental. There were
386 already multiple points of entry and the parking in the rear was already there, but they would
387 make it more visually appealing.
388

389 Ms. Gelzinis said this would help solve a much needed housing issue in an affordable way.
390

391 ***On a motion made by Mr. Gayle and seconded by Mr. Miller, the Board of Zoning Appeals***
392 ***approves Special Use Permit SUSE-000537-2023 for a two family dwelling, as authorized***
393 ***by section 106-53(15) of the Zoning Ordinance for Tax Map # 110-3-B14.***
394

395 ***The Special Use Permit (SUP) is approved with the recommended conditions:***

- 396 1. ***The applicant apply for and obtain all required permits from the County's Building***
397 ***Department and VDH to allow a two-family dwelling unit.***
398

399 **E. VAR-000539-2023: Le Ung– 19111 Gaskins Rd, Onancock**

400 The applicant requests the following variances from the requirements outlined in Section 106-
401 232 of the Accomack County Poultry Ordinance. This allow a non-conforming confined
402 poultry operation that ceased the use for longer than 2 years to be re-opened. This confined
403 poultry operation was constructed prior to the currently adopted ordinance. The 60.55 acre
404 site is located at 19111 Gaskins Rd, Onancock and is Tax Map #93-A-21. The parcel is zoned
405 Agriculture.
406
407
408
409

410 ***The variances requested are as follows:***

- 411 1. *A Variance of 190 feet from Code Section 106-232(f)(5)(c) which states “The*
412 *minimum setbacks for any portion of a confined poultry operation shall be as follows:*
413 *Two hundred feet from any property line.”*
414 2. *A Variance of 41 feet from Code Section 106-232(f)(5)(d) which states “The minimum*
415 *setbacks for any portion of a confined poultry operation shall be as follows: One*
416 *hundred and twenty five feet from the center of state or county maintained roads”*

417
418 Mr. Pambid gave an overview of the case stating that the future land use recommendation
419 was agriculture, the current use was single family dwelling, and the proposed use is to
420 restart a confined poultry operation. It was agriculture on all sides and the adjacent uses
421 included agriculture, residential and woodlands.

422
423 Mr. Pambid said the property did not have any environmental constraints regarding the RPA
424 or wetlands.

425
426 Mr. Pambid stated he wanted to emphasize that section 106-232(h) of the Zoning Ordinance
427 states that poultry operations are allowed by-right in the agricultural zoning district.
428 Therefore, this application does not involve a variance pertaining to the land use as a poultry
429 operation. This variance was for setbacks only.

430
431 Mr. Pambid said the aerial he showed was from 2021, but the six poultry houses were in
432 existence in 2002.

433
434 Chairwoman Kerns asked if that was when they started, and Mr. Pambid said that was when
435 they first showed up in an aerial they had a file of.

436
437 Mr. Pambid pointed out a manure shed that that showed up around 2009-2013, however, the
438 applicant could give more information on with it was actually built. The shed was 10 square
439 feet from the side property line.

440
441 Mr. Pambid said the ordinance considerations were as follows:

442
443 ***Code Section 106-252: Powers of the Board of Zoning Appeals***

- 444 1. *Whether the proposal is compatible with the general character of the surrounding*
445 *neighborhood, and creates an attractive and harmonious community.*
446 2. *Whether the proposal has any effect on scenic, historic and waterfront areas, and*
447 *the effects on property rights and values.*
448 3. *Whether additional conditions are necessary to protect the health, safety,*
449 *convenience and welfare of the general public.*

450
451 Mr. Pambid said the staff finds was that a hardship exists in so much that this is an existing
452 facility closed down by Tyson Foods partially created by the Covid pandemic.

453
454 Mr. Pambid said that poultry operations had existed on the property since at least 2002 and
455 was purchased, in good faith, in 2016. The applicant agreed to be fully compliant with the
456 Confined Poultry Ordinance, and if approved it would be a condition of issuance of the
457 variance. All other requirements of state agencies were also subject to approval.

459 The recommended conditions were as follows:

- 460 1. *Prior to commencing operations, the applicants shall apply for and obtain all permits*
461 *as required by the Commonwealth of Virginia, Department of Environmental Quality,*
462 *Water Control Board and the Virginia Department of Conservation and Recreation.*
463 *Once obtained, the applicants shall provide these permits to the Zoning Administrator*
464 *or his designee.*
- 465 2. *The applicants submit a Landscaping Plan in accordance with Section 106-232,*
466 *demonstrating a suitable vegetative buffer for the visual screening of the confined*
467 *poultry operation from Gaskins Road.*

468
469 Mr. Pambid said there were eighteen letters opposition letters that cited various concerns.
470

471 Mr. Pambid stated that if the BZA rendered a decision that the applicant wished to appeal they
472 may do so to the Accomack County Circuit Court within 30 days.
473

474 Mr. Mark McCready appeared before the Board of Zoning Appeals on behalf of the applicant,
475 and was sworn in by Chairwoman Kerns.
476

477 Mr. McCready said that Ms. Ung purchased the property in 2007 and in 2016 they purchased
478 another farm in Exmore. The chicken houses had been there for over 20 years and the first
479 manure shed was built when the first four houses were built in the last 90s.
480

481 Mr. McCready said the original manure shed caught on fire and they were told to put the new
482 manure shed in the same footprint.
483

484 Mr. McCready said on their completed as-built drawing there was a line there for a proposed
485 buffer strip. A plan had not been done due to not knowing how the meeting would go, and
486 \$7,000.00 had already been spent on the as-built drawing.
487

488 Mr. McCready said they understood that they had to abide by the new regulations and had
489 already spoken with DEQ. If approved they would have Mr. Steve Mallet would work with
490 the County on getting the buffer strip done.
491

492 Mr. McCready said the farm did not get shutdown due to performance or poor management.
493 Years ago Tyson was going to expand their plant and built several chicken houses. They built
494 too many and did not expand the plant causing them to have more chicken houses than what
495 they needed. Tyson then cut back on the older farms to make room for the new farms and then
496 covid came along making this worse. Mr. McCready said the poultry companies cut back
497 production because they could not man the plants. With that being said Mr. McCready said
498 that Tyson shutdown the farm.
499

500 Mr. McCready said even though the farm was not in production they still had to pay the
501 mortgage on it. Taxes also had to continue to be paid, and even though there were no chickens
502 on the farm the tax rates did not decrease.
503

504 Mr. McCready said that had caused an extreme hardship for them, but now they had the
505 opportunity, if they could get the variance, to restart their poultry operation.
506

507 Mr. McCready said they knew renovations needed to be done, and if they were granted the
508 variance, they would have a consultant do the nutrient management plan along Gaskins Road.
509 Mr. McCready noted that he had also been in contact with Mr. Chris Daley.

510
511 Mr. McCready said while he was there he was going to address the fire. Mr. McCready said
512 due to it being a manure shed, DEQ took control of it. When they put the fire out they piled
513 everything up. They did not want any leeching of manure or water to get into the water or
514 ditches.

515
516 Mr. McCready said he was ordered not to touch it. Mr. McCready said he was in contact daily
517 with Tyson, the County manager, and with the director of DEQ. Mr. McCready said he begged
518 them to let him open it up, but he was overruled. Mr. McCready apologized for any
519 inconvenience that might have caused anyone.

520
521 Mr. McCready said he asked DEQ if they could hold a meeting letting people know what was
522 going on and they said no. Mr. McCready said he was told that if he moved the pile in any
523 way he would be arrested.

524
525 Chairwoman Kerns asked Mr. McCready if there was a pond on site and if it was self-
526 contained. Mr. McCready said it was self-contained, but that he was not allowed to touch it.
527 If there was a real heavy rain the pond had the ability to overflow, but it was a DEQ matter.

528
529 Mr. Gayle said regarding the fire, the captain of the Onancock Fire Department, (Adam
530 James), came and addressed the Planning Commission. Mr. James detailed everything and it
531 agreed with what Mr. McCready had told them. Mr. Gayle added that manure shed fires were
532 not uncommon.

533
534 Mr. McCready said in front of the manure shed was a 40 square feet pad on both ends, and it
535 was on the drawing, making it greater than 10 square feet from the property line.

536

537 CHAIRWOMAN KERNS OPENED THE FLOOR TO PUBLIC COMMENT

538
539 **Ms. Mariam Riggs** stood before the Board of Zoning Appeals and was sworn in by
540 Chairwoman Kerns.

541
542 Ms. Riggs said her first concern would refer to the 10 foot distance between the western
543 boundary of the manure shed and the neighboring property owner. The applicant did not own
544 the wooded lot and what if the people who owned it decided they wanted to put a house on it
545 one day. They would be faced with a manure shed 10 square feet away from their property
546 line and that would infringe upon any future use.

547
548 Ms. Riggs said that she thought it was bad planning to give blanket approval with a variance
549 when they were, in fact, impact an adjoining property.

550
551 Ms. Riggs said, that the manure pile could not be spread out was because there was not
552 enough room to spread it out on the ground. Ms. Riggs said at the time she had been
553 speaking to the Director of Public Safety because she was concerned about the smoke.
554 Adding that it permeated the neighborhood and surrounding area for three weeks. Ms. Riggs
555 said that the owner did nothing and the pile continued to burn.

556 Ms. Riggs said that the manure sheds were volatile and they spontaneously combust when
557 exposed to water.

558

559 Ms. Riggs added that Savageville was an historic black community and that people were
560 living there before the chicken houses were built. However, there were many empty houses
561 on Gaskins Road now. Ms. Riggs said the residents, before the farm was shutdown, were
562 breathing polluted air. Ms. Riggs added that a 2020 National Institute of Health report
563 indicated that poultry farms were the biggest emitters of dust, microorganisms, organic
564 compounds, (including pharmaceuticals used on the flocks), manure, litter, and dust. It was
565 not just the odor it was ammonia and hydrogen sulfite adversely affecting the life of people
566 living in the vicinity of poultry farms.

567

568 **Ms. Janet Conquest-Powell** stood before the Board of Zoning Appeals and was sworn in by
569 Chairwoman Kerns.

570

571 Ms. Conquest-Powell said that she owned property on Gaskins Road and Redwood Road and
572 the poultry houses affect both properties.

573

574 Ms. Conquest-Powell said she purchased her home in 1990 and she was the first one. Not
575 long after a few more homes were put in and the neighborhood was building up. When the
576 poultry houses were being put in her older neighbors became concerned so she called the
577 County on their behalf. Ms. Conquest-Powell said she was told the poultry farm could go
578 there because they had the acreage and it was zoned agriculture. This meant they had no say
579 and no buffer (trees) were ever put up.

580

581 Ms. Conquest-Powell said they could hear the fans because it was quiet around there. The fans
582 were loud and they put out pollution, dander, and manure. Ms. Conquest-Powell said that her
583 sister's eleven acres of wooded land was only 10 square feet away, and that she sent in a letter
584 to the County.

585

586 Ms. Conquest-Powell said even if a road was put in to get to her sisters property, no one would
587 want to be 10 square feet away from a manure shed.

588

589 Ms. Conquest-Powell said there was a fire 2015 and they had the smell and smoke for weeks.

590

591 Ms. Conquest-Powell said she was adamantly against the poultry farm. It affected the air that
592 they breathe, their water, and was a detriment to their health.

593

594 **Ms. Sue Mastel** stood before the Board of Zoning Appeals and had already been sworn in by
595 Chairwoman Kerns.

596

597 Ms. Mastel said although the staff's language says that the poultry ordinance, "allows a non-
598 confined poultry operation that ceased use longer than 2 years to be reopened", the ordinance
599 was actually silent on that issue. It only said that such facilities "shall be conforming so long
600 as the existing use is not interrupted for more than 2 years."

601

602 Ms. Mastel said to her the language in the ordinance implied that if operations were
603 interrupted for longer than two years, the setbacks in the ordinance were enforceable when it
604 restarted.

605 Ms. Mastel said one request was for 190 feet variance for a 200 feet set back. That was a 10
606 feet setback when the ordinance called for 200 feet.
607
608 Ms. Mastel said by putting this poultry farm back in operation without enforcing the
609 ordinance's setbacks they were condemning those property owners with a life of poor air
610 quality, lower property values or the inability to build at all.
611
612 **Ms. Peggy Scarborough** stood before the Board of Zoning Appeals and was sworn in by
613 Chairwoman Kerns.
614
615 Ms. Scarborough said she agreed with what had been said so far. Ms. Scarborough added that
616 she owned a farm that shared a boundary line with the poultry farm. Ms. Scarborough asked
617 if the variances would be enforced, and if so would there be any monitoring to see that they
618 are being complied with over time.
619
620 **Mr. Alvin Bailey** stood before the Board of Zoning Appeals and was sworn in by
621 Chairwoman Kerns.
622
623 Mr. Bailey said he was a resident on Gaskins Road and that his home was maybe one quarter
624 of a mile from the chicken houses.
625
626 Mr. Bailey said he was not on the Shore when the farm was open and constructed, but his
627 house was there. Since then Mr. Bailey had moved back and wanted to voice his opposition
628 to them reopening.
629
630 Mr. Bailey said he felt like a prisoner in his home due to the stench and that it was a quality
631 of life issue. As a resident of Gaskins Road, Mr. Bailey said he was not looking forward to
632 that stench once again.
633
634 **Ms. Hester Webb** stood before the Board of Zoning Appeals and was sworn in by
635 Chairwoman Kerns.
636
637 Ms. Webb said she was born and raised on the Eastern Shore and when she moved back in
638 2007 the chicken houses were there. Ms. Webb lives on Gaskins Road and said she did not
639 miss the smell of the chicken houses. She could currently sit outside and enjoy fresh air, but
640 when the houses were in operation the stench would go in with you. (It would be on your
641 clothes)
642
643 Ms. Webb said she was opposed to the chicken houses opening back up.
644
645 **Ms. Elizabeth Bell** stood before the Board of Zoning Appeals and was sworn in by
646 Chairwoman Kerns.
647
648 Ms. Bell said that she lived in Onancock and most of the people have spoken on the smell,
649 but there must have been a problem if DEQ would not allow them to reopen. Ms. Bell asked
650 if they wanted to put a price on someone's life.
651
652 Mr. McCready said that he would like to rebuttal the comments:
653

- 654 • Medications including antibiotics were not used on the chickens anymore. Most of
655 them now were antibiotic free.
- 656 • The chicken houses were not wide open like they were in 2007. They were closed
657 now.
- 658 • They do not have open water systems which created the stench. They were closed
659 now.
- 660 • Yes it was true that Ms. Ung lived in Princess Anne, MD, but he lived here on their
661 other farm. When the fire was going on he was there every day.
- 662 • DEQ does not shutdown poultry operations unless there are severe violations. They
663 have yearly DEQ inspections on the farm even though there are no birds. The last one
664 was in October.
- 665

666 Chairwoman Kerns asked Mr. McCready what type of renovations he would be doing.

667

668 Mr. McCready said that he had to put meters on the wells and be able to ready the meters.
669 DEQ would come down and tag the wells.

670

671 Chairwoman Kerns then asked about the fan system changing. Mr. McCready said they have
672 gone to tunnel ventilation, and the chicken houses did not have the moisture in them like they
673 used to.

674

675 Chairwoman Kerns asked about the runoff of the water going into the creek. Mr. McCready
676 said there would have to be a really heavy rain, because there was a dike there. The only time
677 that it had ran over was when there was 14 inches of rain. It was a major storm, but other than
678 that the pond did not drain.

679

680 Mr. McCready said they had more than enough room to spread out the wood, because manure
681 shed was gone. Mr. McCready said he owned all the land between there and the chicken
682 houses. There was an access of over 100 feet there. DEQ would not allow it.

683

684 Chairwoman Kerns asked how big was the manure shed and Mr. McCready said it was
685 40x120. Chairwoman Kerns asked if there was any way to move it or build one in another
686 place, and Mr. McCready said no. It was placed back in the same footprint because that was
687 what he was required to do.

688

689 Mr. McCready said he would follow the rules that he had to follow.

690

691 **Mr. Tariq Sharif** stood before the Board of Zoning Appeals and was sworn in by
692 Chairwoman Kerns.

693

694 Mr. Sharif asked if the reason why the manure shed could not be was economic, structural or
695 permitting reasons.

696

697 Mr. McCready said he would have to apply for another variance to build another manure shed,
698 and to build one like it would cost \$150,000.00.

699

700 **Mr. Colby West** stood before the Board of Zoning Appeals and was sworn in by Chairwoman
701 Kerns.

702

703 Mr. West said they did not need more chicken houses. There was a housing shortage and that
704 is what they needed. Savageville was one of the most established communities, (he thought),
705 in Accomack County.

706
707 Mr. West said they were happy to see the chicken houses close and that it had a physiological
708 effect on a person.

709

710 **CHAIRWOMAN KERNS CLOSED THE FLOOR TO PUBLIC COMMENT**

711

712 Mr. Pambid said one thing that was not in the staff report that he wanted to point out, from a
713 acreage standpoint, was that the applicant had the acreage to add more chicken houses
714 without any public hearings.

715

716 Mr. Pambid said staff's position was to reuse what was there instead of building new
717 additional ones.

718

719 Mr. Gayle said that if reactivation of these houses were to have occurred at 23 months they
720 would not be there, (no hearing).

721

722 Mr. Gayle said the Planning Commission reviewed all the poultry regulations three or four
723 years ago and they had all been revised to address issues for the newer houses, and to
724 provide a more acceptable environment for them to occur.

725

726 Mr. Gayle also mentioned that there was a VIMS study that definitively proved there was no
727 significant water quality impacts due to poultry operations from the Shore. Virginia Tech
728 definitively proved 30 years ago that a lot of the water pollution in the creeks were due to
729 wildlife waste.

730

731 Ms. Milbourne said there was a lot of opposition and that was a concern for her.

732

733 Mr. Miller said he had an issue with the neighbors not feeling like they were being heard.

734

735 Mr. Holland said he understood the concerns, but again, if it had only been 23 months they
736 would not be having the discussion. Mr. Holland felt like they needed to put their faith in
737 the state agencies who had done the research.

738

739 Chairwoman Kerns asked if this was approved could they make it a requirement that no new
740 chicken houses be added, and if they wanted to add more would they have to come back
741 before the board?

742

743 Mr. Pambid said any new houses would have to comply with the existing ordinance. With
744 the 60 acres they have, the property could support up to 12 more houses, (Deputy Director
745 Paul Seltzer). Mr. Pambid said the 6 new houses could be put in by right without a hearing.

746

747

748

749

750

751

752 *On a motion made by Mr. Gayle and seconded by Mr. Holland, the Board of Zoning*
753 *Appeals approves a Variance to Sections 106-232(f)(5) (c) & (d) of the Confined*
754 *Poultry Ordinance for Tax Map #93-A-21, subject to the following conditions:*

- 755
756 *1. Prior to commencing operations, the applicants shall apply for and obtain all*
757 *permits as required by the Commonwealth of Virginia, Department of*
758 *Environmental Quality, Water Control Board and the Virginia Department of*
759 *Conservation and Recreation. Once obtained, the applicants shall provide these*
760 *permits to the Zoning Administrator or his designee.*

761
762 **Mr. Miller and Vice Chair Milbourne were opposed and Chairwoman Kerns approved**
763 **breaking the tie.**

764
765 **8. NEXT MEETING**

766 The next regular Board of Zoning Appeals meeting is scheduled for Wednesday, October 4,
767 2023 at 10:00 a.m. in the Accomack County Board Chambers, Room 104, in Accomac.

768
769 **9. ADJOURNMENT**

770 *On a motion made by Ms. Milbourne and seconded by Mr. Drewer, the Board of Zoning*
771 *Appeals voted unanimously to adjourn the meeting at 12:04 a.m.*

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774
775
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777 _____
778 Mrs. Elizabeth Kerns, Chairwoman

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776
777 _____
778 Prepared by
Chontese Ridley, Planner I