

**Virginia: At a meeting of the Accomack County Board of Zoning Appeals, held
in the Chambers of the Board of Supervisors on the 17th day of
April, 2013, A.D.**

Members present:

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

Member absent:

Mr. W. Richard Bull, Jr.

Others present:

Mr. David A. Fluhart, Zoning Administrator
Ms. Gracie A. Milbourne, Recording Secretary

The meeting was called to order by Mr. Robert L. Nock, Chairman, at 10 a.m.
and opened to a public hearing on the following zoning matters:

1). A request from Gerald Edgley and Gail Kruhm for a Variance from Article XVI, Section 106-384c, Chesapeake Atlantic Preservation Act (CAPA) for the location of a single family dwelling on Lot# 13, Wishart's Point Subdivision, County Tax Map# 43-1-13, Atlantic, Virginia.

Mr. Doug Small, architect, appeared before the Board to represent this application. The certified mail receipts of the adjoining property owners were submitted prior to this hearing. Mr. Small opened the discussion on this variance request with a review of the site plan, the house design, lot size and height restrictions for this development. He indicated that due to the lot size and height restriction, the house will not fit on the lot without encroaching in the 50-foot landward portion of the Resource

Protection Area (RPA). He further stated that a mitigation plan will be submitted and the owners agree to meet other staff recommendations as suggested.

Mr. Daniel J. Hoppe, Mr. Timothy Falkinburg, and Mrs. Joyce Falkinburg appeared before the board in opposition of this variance application. Their comments were: 1) The 100-foot setback regulation was adopted to protect the Chesapeake-Atlantic and should apply to all; 2) The house could be moved back from the water to avoid the need for a variance; 3) The architect should have advised the owners of the setbacks; 4) A smaller house design would avoid the need for a variance; and 5) The approval of this variance would set a precedent for others.

At this time the Board asked Mr. Norman Pitt, Environmental Planner, to discuss the staff report. Mr. Pitt indicated that his findings and staff report does not recommend approval or denial of this application, but does recommend that if the variance is granted, a mitigation plan be submitted and the buffer encroachment minimized by moving the house location landward.

Mr. Small acknowledged the staff recommendations and advised that the Water Quality issue will be addressed. He also stated that the proposed house location will be less of an impact than the other waterfront houses in this development.

Mr. Gerald Edgley appeared before the Board and identified himself as a biologist and regional planner by profession. He explained that the proposed house was designed to fit within the parameters of the lot and asked that he be treated fairly as all other houses built on the water encroach into the 100-foot buffer. He mentioned that he will mitigate by putting in a dry well and would accept other recommendations from this board.

Ms. Gail Kruhm appeared before the Board and stated that the proposed one-story house was designed to meet the covenants in the subdivision and asked for the approval of the variance.

Mr. Nock asked for suggestions to improve and not impede the Water Quality for this site. The Board discussed the improvements already done by moving the house landward in-line with the other waterfront houses and considered this as some mitigation but suggested that in addition to the dry well, they must consult with Norman Pitt for other mitigation ideas.

After a lengthy discussion, Mr. Gayle made a motion to approve this variance with the stipulation that the Staff recommendations must be followed and the proposed house setback must touch the 15-foot side yard lines. Mr. Drewer seconded the motion. Ayes: Mr. Nock, Mrs. Kerns, Mr. Drewer, and Mr. Gayle.

Mr. Fluhart read the Right-of-Appeal.

REVIEW OF A SPECIAL USE PERMIT GRANTED DECEMBER 3, 2008

A request from Ernesto Briones, Jr. to discontinue the car sales and repair facility at 19045 Lankford Highway and expand the Flea Market approval to the front of the property and to the corner of Lankford Highway and Whites Neck RD. This property is located beside the former Owl Restaurant, County Tax Map# 79-A-17A, near Parksley, Virginia.

Mr. Ernesto Briones appeared before the board and asked for permission to expand the flea market area from the back of the property to the front for better visibility with a fruit/vegetable cart on the corner of Whites Neck RD and Lankford Highway. He explained that the car sales business was unsuccessful and has closed.

Mr. Fluhart gave a brief history of the original Special Use Permit approval granted in 2008 and advised Mr. Briones that a building permit will not be required if the vegetable stand is 200 square feet or less in size but will need approval from VDOT.

After a brief discussion and positive comments about the business and its appearance, Mrs. Kerns made a motion to approve the continuation of the flea market business with the expansion of the operation to the front of the property. Mr. Drewer seconded the motion. Mr. Nock, Mrs. Kerns, Mr. Drewer, and Mr. Gayle.

MINUTES:

Mrs. Kerns made a motion to approve the minutes of the March 20, 2013 meeting as circulated. Mr. Gayle seconded the motion. Ayes: Mr. Nock, Mrs. Kerns, Mr. Gayle, and Mr. Drewer.

ADJOURNMENT:

Mrs. Kerns made a motion to adjourn at 11:15 a.m. Mr. Drewer seconded the motion. Ayes: Mr. Nock, Mrs. Kerns, Mr. Drewer, and Mr. Gayle.

Mr. Robert L. Nock, Chairman