

ACCOMACK COUNTY BOARD OF ZONING APPEALS MINUTES OF JULY 19, 2017

At a meeting of the Accomack County Board of Zoning Appeals held on the 19th day of July 2017, 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, Chairman

Mr. Harvey A. Drewer, II

Mr. W. Richard Bull, Jr.

Mr. Lynn P. Gayle

Board of Zoning Appeals Members Absent:

Mrs. Elizabeth Kerns, Vice Chairwoman

Others Present:

Mr. Rich Morrison, Director of Planning and Community Development

Ms. Jessica Taylor, Administrative Assistant

Ms. Kristen Tremblay, Assistant Planner

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 Mr. Drewer, the Board of Zoning Appeals voted to approve the agenda with an amendment to handle New Business prior to Old Business.

3. PUBLIC COMMENT PERIOD

Chairman Nock opened the public comment period. No one signed up or requested to speak.

4. MINUTES

A. June 7, 2017

On a motion by Mr. Bull and seconded by Mr. Drewer, the Board of Zoning Appeals voted to approve the June 7, 2017 minutes as presented.

5. NEW BUSINESS

A. Town of Parksley – LED sign – Tax Map # 79-A-37

A hearing initiated by the Town of Parksley for a Special Use Permit to locate a double-sided LED sign on County owned property located at Fisher's Corner (Route 13/Parksley Road).

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Prior to the meeting, staff found that VDOT was unable to approve the request as it was presented. Therefore, staff recommended that the BZA conduct the public hearing, and postpone action on the matter until such time as the VDOT approval matter is resolved

Jim Eichelberger, Town of Parksley Mayor, was sworn-in by Chairman Nock. Mr. Eichelberger expressed that the request had become much more involved than anticipated; that the Town will need to obtain a business license and apply for permits prior to erecting the proposed sign. He noted there was also an issue with the existing sign being in the Railroad's name and that may need to be transferred to the Town of Parksley.

On a motion made by Mr. Bull and seconded by Mr. Drewer, the Board of Zoning Appeals voted to postpone a decision on the matter (Town of Parksley – LED sign – Tax Map # 79-A-37) until the Town obtains VDOT approval and resolves all other matters. Staff will bring the application back to the Board of Zoning Appeals as soon as it is deemed complete.

6. OLD BUSINESS

A. William McCarter – Shore Aviation, LLC/Virginia Hang Gliding – Tax Map # 119-A-101

Chairman Nock reviewed information related to the Special Use Permit issued on May 6, 2015 for property at 16620 Coal Kiln Road, Painter Virginia.

Mr. Paul Watson IV, Attorney for Mr. Robert Joynes, provided the BZA with a letter dated July 19, 2017. He expressed his concern with compliance of the past and current operations relative to the size and placement of the runway. On behalf of his client, Mr. Joynes, Mr. Watson requested that the BZA issue a second notice of violation; this time for the runway size and location.

Chairman Nock stated that one (1) of his main concerns was the location of current flight operations. The BZA agreed and expressed that the dimensions of the airstrip needed to be clarified and abided by.

Mr. Robert Joynes was sworn in by Chairman Nock and asked to provide a summary of the situation, from his perspective, within a 10 minute time frame. Mr. Joynes provided the BZA with a lengthy timeline of events and photos to support his concerns, which included: noise, safety, time of operation, location of airstrip, misrepresentations, land ownership, etc.

Mr. Donald Guynn, Virginia Hang Gliding, was sworn in by Chairman Nock. Mr. Guynn stated that he had taken over the business operations. Chairman Nock explained that he would like to receive information from Mr. Guynn and would do so by holding a Question and Answer period related to the property and operations of the company.

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Chairman Nock began by asking Mr. Guynn to identify the location of the airstrip on a map image of the parcel. Mr. Guynn did so and stated that due to weather conditions, such as wind, he does at times take-off outside of the operating area. Mr. Guynn then proceeded to show the flight paths that he may use on a normal day versus a windy day. Chairman Nock and the BZA expressed concern with Mr. Guynn operating outside of the approved operating area and flying over nearby residences. Mr. Guynn responded that the FAA has exemptions that allow him to operate outside of his approved area such as: safety, use of a tow plan (light sport aircraft). Mr. Guynn referred the BZA to the 2014 FAA Regulation Book, FAR Part 103, which he provided.

When asked to respond to Mr. Joynes' concerns Mr. Guynn expressed the following:

- Attempts to avoid flying over homes and trees as it causes unfavorable flying conditions, but has flown over homes on Coal Kiln Road; one (1) being a friend that does not mind and during the first operating season, flew over the Joynes' home, but did not again after Mr. Joynes complained;
- Has applied for a permit to remove trees from property at the southern end of the runway and that he has heard the Joynes' farm had been sold (he may be able to purchase additional property from new owners); and
- During ultra-light operations, there are exemptions that allow pilots to fly outside of the flight area.

Mr. Bull, Mr. Drewer and Mr. Gayle each suggested that Mr. Guynn file for an amendment to the Special Use Permit as the perimeters shown on the original plan are not being abided by. Mr. Guynn expressed that he did not need a larger flight area; he was able to contain flights to the approved area.

Mr. Bull asked Mr. Guynn if at any point during operations he had yelled 'woohoo' or anything of that nature, over or in the directions of the Joynes' home while the Joynes' were outside; Mr. Guynn stated that he had during the first season of operations.

Chairman Nock took a moment to express that during deliberation and discussion of this matter, the BZA members do not want to jeopardize the safety of Mr. Guynn, his customers, or neighbors of the property as the safety of humans and property are important to them.

Mr. Watson and Mr. Joynes were allowed additional time to respond to comments:

- Clarified that the Joynes' farm has not been sold; and
- Mr. Guynn has admitted to violations of flying outside of the approved area.

The BZA and Mr. Morrison discussed holding a closed session or work session to further discuss the matter as members have legal questions related to the matter. Mr. Morrison will consult with the County Attorney, Cela Burge.

Mr. Morrison provided the BZA with the following information related to the matter:

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- A violation notice was issued in December 2016 to put the operation in compliance with the approved site plan.
- There is a disconnect in the understanding of County and FAA rules. The County approval of the area of operation stands regardless of the FAA rules in the air.
- Recommended that the BZA order Mr. Guynn to comply with the approved site plan or face possible revocation. Mr. Guynn should request an amendment to the site plan to fit his operations.
- He made three (3) visits to the property, operations were only occurring on one (1) of the days. On that day, Mr. Morrison found that the flights appeared to be in compliance, however, the aircraft did fly over the Joynes' home with the glider in tow. It appeared that during the first ascend, the glider was within 500 feet of the Joynes' home; by the second ascend, it was well above 500 feet. The aircraft did not fly back over the home, it returned to the field; however, the glider did return in the vicinity of the Joynes' home.
- If flying outside of the box approved on the site plan, approval from the BZA is required.

Mr. Guynn disagreed with Mr. Morrison and stated that he did not fly over the Joynes' home, but it may have appeared that way from Mr. Morrison's vantage point. Mr. Morrison further expressed that he was certain he witnesses the aircraft and glider over the Joynes' home, or the residences west of the Joynes' home.

Chairman Nock requested input from each board member:

1. Mr. Bull suggested that the BZA enforce hours of operation and the perimeter that operations are allowed to occur. He noted that it is clear the two (2) parties do not get along.
2. Mr. Gayle expressed that noises occur everywhere; however, the perimeters of operations needed to be enforced.
3. Mr. Drewer expressed concern of whether or not the approved perimeter is long enough and suggested an amendment to the site plan.

After hearing from the members, Mr. Morrison stated that the BZA has determined the operations are not in compliance with the approved site plan and special use permit; therefore, the BZA should require Mr. Guynn to file for an amendment by July 28, 2017 in order for the matter to return before the BZA at its August 16, 2017 meeting or the BZA should begin revocation of the special use permit.

On a motion made by Mr. Gayle and seconded by Mr. Bull, the Board of Zoning Appeals voted to require Donald Guynn, Owner of Virginia Hang Gliding, to file for an amendment to the special use permit issued to William McCarter on May 6, 2015 for the location of a 1200' X 100' airstrip on County Tax Map # 119-A-101 or the

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Board of Zoning Appeals will begin the revocation process as the violation notice was served in December 2016.

All materials provided to the Board of Zoning Appeals may be viewed at the Department of Planning and Community Development – 23282 Courthouse Avenue, Accomac, VA 23301.

7. OTHER MATTERS

The BZA thanked staff for their hard work and improvements to the packets and staff reports, noting that it makes the decision making process much easier to have all important information available.

8. NEXT MEETING

The next Board of Zoning Appeals meeting is scheduled for Wednesday, August 2, 2017 at 10:00 a.m. in the Accomack County Board Chambers, Room 104, in Accomac.

9. ADJOURNMENT

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

The meeting was adjourned at 11:47 a.m.

Mr. Robert L. Nock, Chairman

Jessica L. Taylor, Administrative Assistant