

ACCOMACK COUNTY BOARD OF ZONING APPEALS MINUTES OF AUGUST 16, 2017

At a meeting of the Accomack County Board of Zoning Appeals held on the 16th day of August 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
Mrs. Elizabeth Kerns, Vice Chairwoman
Mr. Harvey A. Drewer, II
Mr. W. Richard Bull, Jr.
Mr. Lynn P. Gayle

Board of Zoning Appeals Members Absent:

None

Others Present:

Mr. Rich Morrison, Director of Planning and Community Development
Ms. Jessica Taylor, Administrative Assistant
Mr. G. Christian Guvernator IV, Director of Environmental Programs

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 Mrs. Kerns and seconded by Mr. Gayle, the Board of Zoning Appeals voted to approve the agenda as presented.

3. PUBLIC COMMENT PERIOD

Chairman Nock opened the public comment period. Staff and the BZA briefly discussed the purpose of the public comment period, noting that the public comment period is to discuss items not on the meeting agenda.

Attorneys for the Shore Aviation, LLC/Virginia Hang Gliding spoke at this time, but the minutes of that will be listed under the agenda item 6.B.

4. MINUTES

A. August 2, 2017

- Mrs. Kerns requested a correction to the wording on page two (2) that Mr. Shutt has moved 'into' Mrs. Kim's home.

On a motion by Mrs. Kerns and seconded by Mr. Bull, the Board of Zoning Appeals voted to approve the August 2, 2017 minutes as amended.

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5. OLD BUSINESS

A. Soon Rye Kim (Shutt) – Tax Map # 79-A-50A

This matter was tabled at the BZA's August 2, 2017 meeting.

Mr. Morrison informed the BZA that just prior to the meeting; Mr. Shutt called to request that the BZA postpone its decision on the matter. He explained that staff had been in contact with Mr. Shutt as the BZA had requested additional information and Mr. Shutt expressed he did not have intentions of providing the information.

The request was to place an accessory dwelling (mobile home) on their property located at 20452 Fox Grove Road – Parksley, VA 23421. A Special Use Permit is required by Section 106-53 (22) of the Zoning Ordinance for accessory dwellings in the Agricultural Zoning District.

Prior to making a motion, staff and the BZA reviewed issues of concern again:

- Staff is unable to confirm that the existing home is the Kim/Shutt's primary dwelling.
- Without a clear to scale drawing or survey, staff is unable to identify the property lines and location of the structure (the deed does not provide clear boundaries to match aerial imagery) or confirm that the required separation distance between dwellings can be met.
- The application stated that the mobile home was to allow the applicant to care for elderly parents, not to use as a rental. Noting that since at least 2011, the BZA has not approved an accessory dwelling for rental purposes.
- The applicants have not received approval from the Health Department for the location of the proposed well and septic, which could affect the location of the mobile home also.

On a motion made by Mrs. Kerns and seconded by Mr. Drewer, the Board of Zoning Appeals voted to deny the request from Soon Rye Kim to locate an accessory dwelling on property located at 20452 Fox Grove Road – Parksley, VA 23421 as the applicant did not submit required materials and the Board of Zoning Appeals does not typically approve second dwellings on a property for rental purposes.

6. NEW BUSINESS

A. Frank Cornell – Tax Map # 77-A-117

A hearing initiated by Frank Cornell, Property Owner, pursuant to Accomack County Code Section 106-389 to request a variance the requirements of the Chesapeake Bay Preservation Overlay District to allow for encroachment into the Resource Protection Area (RPA) on property located at 22234 Drummonds Mill Road – Greenbush, VA 23357. Tax Map # 77-A-117. Mr. Cornell was sworn-in and explained his request to the BZA stating that while there is another location on his property that his garage could be placed, it would require more work and disturbance to a larger area of impervious surface by adding an additional driveway.

Mr. Governor, Director of Environmental Programs reviewed the application and expressed to the BZA that Mr. Cornell has worked closely with staff to disturb the least amount of impervious surface and create a mitigation plan that would offset impact and actually improve the mitigation area.

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On a motion made by Mr. Drewer and seconded by Mrs. Kerns, the Board of Zoning Appeals voted to approve the request for a variance to the requirements of the Chesapeake Bay Preservation Overlay District to allow for encroachment into the Resource Protection Area (RPA) on property located at 22234 Drummonds Mill Road – Greenbush, VA 23357. Tax Map # 77-A-117 with the following reasonable and appropriate conditions, recommended by the Department of Environmental Programs, will prevent causing a degradation to water quality:

- 1. Address garage roof runoff with the roofdrain disconnect method, which will route roof drainage away from the driveway and across a vegetated strip**
- 2. Plant and maintain the following vegetation in mitigation area:**
 - One (1) each: Red Maple (or similar canopy tree)**
 - Two (2) each: American Holly (or similar understory tree)**
 - Three (3) each: Strawberry Bush (or similar shrub)**

It is recommended that plantings occur during the fall or spring growing seasons. A minimum of three (3) site visits will be performed by Department personnel to verify that the mitigation conditions have been met, at the following approximate intervals:

- 1. Near completion of the construction (to validate item 1 above)**
- 2. Immediately following planting (to validate item 2 above)**
- 3. One year following the planting (to validate maintenance of the mitigation area)**

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

A hearing initiated by Donald Guynn DBA Shore Aviation, to amend Special Use Permit #150369, issued on May 6, 2015 to William McCarter, in order to expand the existing runway located at 16620 Coal Kiln Road – Painter, VA 23420. Tax Map # 119-A-101.

The BZA heard from Mr. Paul Watson, attorney for Robert Joynes and Ms. Anita Johnson, for Shore Aviation/Virginia Hang Gliding.

Mr. Joynes and Mr. Watson expressed their concerns with the alleged violations by Donnie Guynn at Virginia Hang Gliding. They reported that Mr. Guynn has recently had two (2) planes and two (2) gliders in the air, the operations are still occurring outside of the approved runway, and that Mr. McCarter (previous owner) had recently flown planes at the site with passengers and no glider attached.

Ms. Johnson had provided a letter to the BZA members requesting an extension as she had recently been hired by Mr. Guynn and she would like time to provide the BZA a complete application and research the information further. Mr. Johnson stated that if the BZA would grant approval of the extension, she and Mr. Guynn had hired MSA Consulting, to have a survey completed on the property as there disagreement of where the property lines are. They will also work to propose conditions and meet with Mr. Watson to find an agreement that both parties will agree to. It was alleged that not all property owners had received proper notice of the meeting. She also stated that one of her other clients is potentially purchasing the Joynes' land and he would like to have the opportunity to attend the meeting.

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Mr. Morrison noted that staff had been notified of the possible defect with notices and recommended holding the Public Hearing, but postponing a decision until a later date that will allow the applicant time to have a survey of the property completed.

Ms. Alice Jones, POA for Albert Smith, both adjoining property owners, was sworn-in. Ms. Jones stated that she had been in contact with Mr. Guynn and stated her concerns with the operation and discrepancy of property lines. Her main concerns were the area of land proposed for clearing, August 6, 2017 incident of the glider detaching from the plane prior to being released properly, and the inconsistent flight times. She would like to ensure the safety of herself, customers of the business, property, and neighbors.

Ms. Melissa Joynes was sworn-in and expressed her disapproval of the amendment request and stated the following concerns:

- Mr. McCarter flying planes with passengers taking flights without a glider attached;
- Yelling of 'woohoo' to herself and her mother along with other instances of yelling across the property and from the air by Mr. Guynn.

Mr. Nock asked staff to look into insurance and etiquette as the BZA has extreme concern for the safety of neighbors and customers of the business. He stated that the case has been very messy and he would like to ensure that the proper conditions are put in place now while the opportunity is available. Discussion ensued related to possible conditions.

Both attorneys agreed that without clarification of property lines, there are many unknowns with the current operation and proposed. They believed that resolution to that issue would allow each of them to provide a better position to satisfy both clients.

Mr. Bull asked Mr. Guynn if he and Mr. McCarter had in fact taken rides in the planes with passengers or together for purposes other than towing a glider. Mr. Guynn responded that the allegation was true. Mr. Bull expressed that the SUP is for towing hang gliders, not non-towing flights.

Mr. Drewer asked if Mr. Guynn had met with adjoining property owner's to attempt to resolve matters. Mr. Guynn stated he had not, but since taking over the business, he had reached out to Mr. Joynes multiple times to discuss the issues and Mr. Joynes had declined.

Mr. Nock directed both attorneys and both clients to hold a meeting in an attempt to work together to find a resolution that would suit both parties. Mr. Nock expressed the importance of safety and family, along with their investments, to have a peaceful environment.

On a motion made by Mrs. Kerns and seconded by Mr. Bull, the Board of Zoning Appeals voted to recess the request from Shore Aviation, LLC/Virginia Hang Gliding until it's a later date to allow the applicant to modify the application and provide the BZA with a survey of the property. The applicant return to the BZA's September 6, 2017 meeting with a date in which the surveyor would be able to complete the survey so the matter can be scheduled for a future BZA meeting.

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7. OTHER MATTERS

Mr. Morrison informed the BZA that Mr. Eichelberger, Mayor of the Town of Parksley, provided an update to the Special Use Permit application for an electronic sign.

The Town now owns the sign, but they will continue to work with VDOT to receive their approval. Mr. Eichelberger will stay in contact with staff.

8. NEXT MEETING

The next Board of Zoning Appeals meeting is scheduled for Wednesday, September 6, 2017 at 10:00 a.m. in the Accomack County Board Chambers, Room 104, in Accomac.

9. ADJOURNMENT

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

The meeting was adjourned at 11:10 a.m.

Mr. Robert L. Nock, Chairman

Jessica L. Taylor, Administrative Assistant