

ACCOMACK COUNTY BOARD OF ZONING APPEALS MINUTES OF NOVEMBER 1, 2017

At a meeting of the Accomack County Board of Zoning Appeals held on the 1st day of November 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

DETERMINATION OF A QUORUM

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

2. ADOPTION OF AGENDA

3. PUBLIC COMMENT PERIOD

Chairman Nock opened and closed the public comment as no one signed up to speak on matters not related to the Shore Aviation, LLC/Virginia Hang Gliding agenda item.

4. MINUTES

A. October 18, 2017

On a motion by Mrs. Kerns and seconded by Mr. Gayle, the Board of Zoning Appeals voted to approve the October 18, 2017 minutes as amended.

5. OLD BUSINESS

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

Chairman Nock allowed one representative from each party to speak.

Ms. Anita Johnson appeared before the BZA to represent Mr. Donnie Guynn. Ms. Johnson noted her objections to recommended motions provided in the staff report. She also expressed that information in the staff report was arbitrary and capricious.

Chairman Nock heard from Mr. Robert Meyers who represented himself as an expert on flight safety. Mr. Meyers expressed the danger of some conditions that were discussed.

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The Board members expressed that the safety of neighbors and customers was their greatest concern and they will continue to address the matter with due diligence; however the pilot is responsible for ensuring safe flying conditions and if that is not able to be done on the current property, the business should consider a different property. Discussion ensued.

Mr. Robert Joynes appeared before the BZA to represent himself and family. He pleaded that the BZA deny the application and revoke the original permit as he believed there to be ongoing violations and feared for the safety of his family.

Mr. Morrison noted that information provided in the staff report was in no way arbitrary or capricious as it is based from the original application submitted and meeting minutes. The BZA held an in depth discussion with staff related to the conditions of the permit.

On a motion made by Mr. Gayle and seconded by Mr. Bull, the Board of Zoning Appeals voted to modify the Special Use Permit granted on May 6, 2015 for Tax Map # 119-A-101.

The BZA makes the following finds to support its decisions relative to the actions it may take:

- 1. Section 106-252 (5) of the Zoning Ordinance states in part “The board of zoning appeals shall have the authority to establish such conditions as it may deem necessary to assure and protect the health, safety, convenience and welfare of the general public within the district.” The BZA finds that conditions are necessary to protect health, safety and welfare.**
- 2. A number of representations were made by the applicant when the Special Use Permit was granted in 2015. Conditions now have been placed on the Special Use Permit that address several of the representations made at that time and to address matters that have arisen since the permit was issued.**
- 3. The BZA recognized at the time of original approval and affirms its understanding of the fact that hang gliding flights cannot take place only over the applicant’s property.**
- 4. An untenable relationship exists between the applicant and the neighboring property owner Joynes that the BZA is unable to mitigate or resolve despite efforts to do so.**
- 5. That a lack of understanding of the Special Use Permit and conformance to the approved site plan by the applicant lead to the initiation of Special Use Permit revocation proceedings by the BZA.**
- 6. The terms and conditions of the Special Use Permit made and approved by the BZA may be appealed to the Circuit Court as prescribed by law.**

Approved with the following conditions:

- 1. The Special Use Permit is issued for Hang Gliding as requested by the applicant.**
- 2. The hours of operation are 9:00 a.m. to 6:00 p.m. (as requested by the applicant as part of the Special Use Permit amendment).**

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3. The season of operation is April 1 - October 31 (as requested by the applicant as part of the Special Use Permit amendment).
4. The originally approved 100 feet x 1,200 feet runway is to be relocated on the property to the south. The northern end of the runway (which was approved to be 200 feet from the Coal Kiln Road property line) is to be located an additional 200 feet to the south. The northern end of the runway is to be located 400 feet from the Coal Kiln Road property line. The southern end of the runway is to be located at the southern property line.
5. The runway is to be located no closer than 165 feet from the western property line at the north end and 128 feet from the western property line at the south end of the runway.
6. The site plan prepared by MSA (dated October 17, 2017) and survey provided by MSA dated September 15, 2017 were relied on to establish dimensions and reference points for the runway location.
7. That the fence improvements as discussed at the October 18, 2017 BZA meeting be made by the applicant prior to April 15, 2018 in the following manner:
8. Extend the existing fence along the property line in two (2) areas; an additional 400 feet to the South at the same height (eight (8) feet) and material (solid wooden) as the existing fence and perpendicular to the existing fence 200 feet to the East and at the same height (eight (8) feet) and material (solid wooden) as the existing fence.

On a motion made by Mrs. Kerns and seconded by Mr. Gayle, the Board of Zoning Appeals has amended the Special Use Permit to include hours of operation, limits on flights per season, establishing a season, and better defining the location of the runway on the property. After more than a year reviewing this Special Use Permit, the BZA concludes that the Special Use Permit conditions are needed and warranted. The BZA further determines that revocation review and proceedings of the Special Use Permit are complete, and no further action to revoke the permit is under consideration by the BZA.

6. OTHER MATTERS

1. **Bailey Road Apartments, Parksley** – Mr. Morrison informed the BZA that this project was approved by the BZA in 2013 for the location of 12 duplexes and a community building; the permit issued has expired.
2. **BoardDocs** – Staff provided the BZA with a quick over view of <http://www.boarddocs.com/va/coa/Board.nsf/Public> and explained that meeting documents will be published on this website for public and Board members to access.
3. **Amanda Paoletti** – Mr. Morrison introduced Ms. Paoletti as the new Assistant Planner. Amanda and her family recently relocated to the Shore. She previously worked for Cecil County, Maryland in the Planning Department, where she has served for over 10 years. Amanda's first day was October 30th.

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7. NEXT MEETING

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

8. ADJOURNMENT

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

The meeting was adjourned at 10:57 a.m.

Mr. Robert L. Nock, Chairman

Jessica L. Taylor, Administrative Assistant