

ACCOMACK COUNTY BOARD OF ZONING APPEALS MINUTES OF MAY 2, 2018

At a meeting of the Accomack County Board of Zoning Appeals held on the 2nd day of May, 2018, 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, Chair
Mrs. Elizabeth Kerns, Vice Chair
Mr. Harvey A. Drewer, II
Mr. W. Richard Bull, Jr.
Mr. Lynn P. Gayle

Board of Zoning Appeals Members Absent: N/A

Others Present:

Mr. Rich Morrison, Deputy County Administrator
Mrs. Katie Nunez, Deputy Director of Planning & Zoning
Mrs. Amanda Paoletti, Assistant Planner
Mr. Thomas Brockenbrough, GIS Coordinator/Floodplain Manager
Mr. Mark Bowden, Building Official

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. Kerns and seconded by Mr. Bull, the Board of Zoning Appeals voted to adopt the amended agenda presented by Mrs. Nunez which placed the Variance (VAR) and the Special Use Permit (SUP) hearings in consecutive numbering order.

3. PUBLIC COMMENT PERIOD

Chairman Nock opened and closed the public comment as no one signed up to speak.

4. MINUTES

A. April 4, 2018

On a motion from Mrs. Kerns and seconded by Mr. Drewer, the Board of Zoning Appeals voted to approved the April 4, 2018 meeting.

Mrs. Nunez stated that one of the public hearings would not be proceeding today: SUP-A-2018-001 (Shore Aviation) is withdrawing their application.

5. NEW BUSINESS (PUBLIC HEARINGS)

A. VAR-2018-003

Catherine Harrison – Tax Map # 120-A-97A1 (House)

A hearing initiated by Catherine Harrison to request a variance to Accomack County Code Section 106-367 (1) of one foot above base flood elevation for the primary residence; said section requires new construction or substantial improvement of any residential structure in AE zones with detailed base flood elevations to be elevated to two feet above the base flood level. The property is located at 18412 Willowdale Dr. and it is zoned Agricultural and in the Flood Hazard Overlay District.

Mrs. Nunez stated that this matter was being withdrawn by staff based upon additional research which showed that the former Building Official had issued a Certificate of Occupancy for the renovation work performed on the primary residence and said approval covered any deviations from the base flood elevation requirements.

B. VAR-2018-004

Catherine Harrison – Tax Map # 120-A-97A1 (Accessory Structure)

Chairman Nock called the hearing into order which was initiated by Catherine Harrison to request a variance to Accomack County Code Section 106-367 (2) to wet flood proof the accessory structure in lieu of dry flood proofing the accessory structure. The property is located at 18412 Willowdale Dr. and it is zoned Agricultural and in the Flood Hazard Overlay District.

Mr. Brockenbrough provided the staff report. He explained that the accessory structure is located in a Special Flood Hazard area with a FEMA designated Base Flood Elevation of nine feet. During the renovations on the primary residence, there were renovations to the accessory structure, including the addition a space for living quarters. These renovations were not in full compliance with the Floodplain Ordinance, especially the addition of the living quarters. He stated that the applicant is seeking to be allowed to only wet floodproof the accessory structure, instead of dry floodproofing. In addition, the staff recommended the removal and restriction of living space from the accessory structure.

Mr. Bowden, Building Official, was present to respond to any questions regarding the difference between dry floodproofing and wet floodproofing. He stated that dry floodproofing is an engineered design with sealed doors and flood gates with the intention to keep water out of the structure. He stated that wet floodproofing allows for water to flow thru the building but the construction materials are flood-resistant.

Catherine Harrison, the applicant and property owner, was sworn in by Chairman Nock, and stated that the staff had fully presented her application. There were no questions from the Board members to Ms. Harrison.

There were no public comments on this matter. Chairman Nock closed the hearing.

On a motion from Mrs. Kerns and seconded by Mr. Gayle, the Board of Zoning Appeals voted to approve the application for Catherine Harrison for VAR-2018-004 to grant a variance from Accomack County Code §106-367 (2) and allow for the accessory structure to be wet floodproofed in lieu of elevating or dry floodproofing, with the following conditions: (1) the areas shown as to be opened on at least one

side are opened; (2) a nonconversion agreement designating that the interior is not to be converted to residential or commercial use and that the open areas are not further enclosed without additional prior approval of Accomack County be completed and recorded with the Clerk of Court; (3) Elevation Certifications prior to converting the accessory building and dairy barn are provided to Accomack County prior to wet floodproofing and after the project is completed; (4) the HVAC unit on site be properly elevated or removed and the large propane tanks properly elevated; and (5) a new Flood Elevation Certificate is provided to Accomack County confirming the conditions above have been met. The applicant shall have 90 days from the date of this approval to meet these conditions.

C. VAR-2018-005 & VAR-2018-006

Dorothea Graves – Tax Map # 5B-A-81 and 81A

Chairman Nock called the hearing into order which was initiated by Dorothea Graves to request a 15' variance from the rear yard setback pursuant to Accomack County Code section 106-83(B) and a 10 feet variance to Road Frontage requirements pursuant to Accomack County Code section 106-82 for the purpose of installing a single family dwelling. The property is located at 1498 Ellis Street, Greenbackville, VA and is zoned Residential.

Mrs. Paoletti presented the staff report. She stated that the applicant is seeking to vacate the lot line between Tax Map #5B-A-81 and 81B and will need a 15 feet variance from the rear yard setback and a 10 feet variance to the road frontage requirements for compliance with Accomack County Code Section 106-82 for the purpose of installing a single family dwelling. She stated that the drainfield and the reserve are located in the front of the lot. She stated that the lots in Greenbackville are small and this would be in conformance with the surrounding lot development.

Mrs. Dorothea Graves, the applicant, and Ms. Margaret Simpson, her daughter, were sworn in by Chairman Nock. Ms. Simpson indicated that they have purchased the house at 1486 Ellis Street and they are seeking for her mom to reside next door so they can take care of each other. She indicated that her mom has purchased a new mobile home for placement on this property.

There were no public comments on this matter. Mrs. Paoletti stated that the lots in Greenbackville are small and compact in area and this would be in conformance with the surrounding lot development in response to a question from Chairman Nock. Staff confirmed that the certified mail receipts have been returned. Mrs. Nunez stated that staff will need to confirm that the type of home mentioned during the testimony of Mrs. Simpson is allowed in this district without further governmental approval.

Chairman Nock closed the hearing.

On a motion from Mr. Gayle and seconded by Mrs. Kerns, the Board of Zoning Appeals voted to grant variance applications VAR-2018-005 for a 15-foot rear setback and VAR-2018-006 for a 10 feet variance to road frontage requirements

based on the comprehensive plan's proposal for a compact town and village design, contingent upon the lot line being vacated between Parcel 5B-A-81 & 81A.

D. SUP-2018-004

Mark Thomas – Tax Map # 85-A-76

Chairman Nock called the hearing into order which was initiated by Mark Thomas to request a Special Use Permit pursuant to Article 106-53(14) of the Accomack County Code to reside in a travel trailer during construction of a permanent dwelling. This property is located on Bayside Road, Onancock, VA and is zoned Agricultural.

Mrs. Nunez stated that the applicant is not in attendance at the hearing because he was called out of town due to the death of his stepmother but the applicant indicated that he would like the hearing to proceed.

Mrs. Paoletti presented the staff report. She stated that staff had conducted a site visit and were shown the location of the installed septic, well and electric box as well as the staked out location of the proposed dwelling. The applicant was in the process of selecting the type of home he was seeking to construct, either a manufactured home or a stick-built home, and he has met with the Building Department to begin the process of getting a building permit.

There were no public comments on this matter. Chairman Nock closed the hearing.

On a motion from Mr. Drewer and seconded by Mrs. Kerns, the Board of Zoning Appeals voted to approve the application for Mark Thomas for SUP-2018-004 under Article 106-53(6) for a period of one year with the following conditions: (1) the applicant provides a written timeline for proposed construction and completion of the dwelling within 30 days of this hearing; and (2) the applicant signs an agreement that the trailer will be removed from the property within one year of this hearing.

E. SUP-2018-005

Janel Enterprises, LLC – Tax Map # 111-A-24

Chairman Nock called the hearing into order which was initiated by Janel Enterprises, LLC to request a Special Use Permit pursuant to Accomack County Code Section 106-403(7) to convert a Model Home Sales Building to a residential dwelling. The property is located at 32380 Lankford Highway, Painter, VA and is zoned General Business.

Mrs. Paoletti presented the staff report. She stated that this is currently a model home and currently serves as the sales location for Tidewater Modular Homes but they are closing the sales office. They tried to market it as a commercial building but were not successful. Since the model home is easily converted to a residential home, they

marketed it as such and were able to find a potential buyer. The house can be accessed from either southbound Lankford Highway or from Elmore Road. The entrance from Lankford Highway is a shared entrance with the adjacent parcel and is referenced in Schedule A of Deed 2005/08189.

Donna Belka, the applicant, and Jason Childay, the proposed purchaser, were sworn in by Chairman Nock. Ms. Belka stated that her husband has been sick for some time which has led them to closing this office. They attempted to sell it as a commercial business but they were unsuccessful; by marketing as a residential property, they were finally able to attract a buyer. Mr. Childay stated that this is a 3-bedroom model home however one of the bedrooms has been allocated as an office space which he intends to keep this way. This would be his primary residence and he would operate his electrical contracting business from this property and store his equipment and materials in the large garage. He is aware that this is a commercial area of the County but he is okay with that. He appreciates that he will be able to have signage marketing his business on Rte. 13.

There were no public comments on this matter. Chairman Nock closed the hearing.

On a motion from Mr. Gayle and seconded by Mr. Drewer, the Board of Zoning Appeals voted to approve the application for Janebel Enterprises, LLC (Donna Belka) for SUP-2018-005 under Article 106-403 (7) of the Accomack County Code.

F. SUP-2018-006

NOAAWIVA – Tax Map # 27-A-33B

Chairman Nock called the hearing into order which was initiated by NOAAWIVA Sportsmen, Inc. to request a Special Use Permit pursuant to Accomack County Code section 106-53(1) to add additional target ranges to four acres which was recently acquired adjacent to the property; said property has a Special Use Permit from 1984 to operate a rifle range membership club. The property is partially zoned Business General and partially zoned Agricultural. This property is located at: 30516 Chincoteague Rd., Oak Hall, VA 23416.

Mrs. Nunez presented the staff report. The original parcel is 7.3 acres and was permitted as a gun range in 1984 through a Special Use Permit. NOAAWIVA acquired four acres adjacent to their parcel and are looking to incorporate that land into the gun range. She stated that the applicant had originally submitted an application in December but withdrew it after learning of the environmental constraints. They have had a chance to investigate the environmental aspects of the plan and wished to move this application forward at this time. The new proposal includes a new parking lot, two equipment sheds and four pistol ranges with associated berms.

Bob Turner, attorney for applicant, and Patrick Henderson, the applicant, were sworn in by Chairman Nock. He stated that Mr. E.L. Trader sold the four acres to NOAAWIVA with the intention that they would be expanding the gun range onto these four acres. The club intends on maintaining the buffer of trees between the club's activities and the main road. Mr. Hendrickson stated that the club has approximately 125 members and is used

by local law enforcement along with the Coast Guard to maintain their weapons certifications. He is the current vice-president of the club and there is a president, secretary, treasurer and safety officer for the club. He responded to a query from the Board that the shopping center/Food Lion is about ½ mile from the gun range and the distance that a bullet can travel depends upon the time of weapon utilized but it could be up to a mile. There have been no reports or instances of anyone being struck by a gun fired at the gun range. He indicated that they hold a youth festival to expose children to proper gun usage and handling.

Mrs. Nunez entered two letters into the record from Steve Brittingham who is opposed to the use of the whole property for a firing range and F. Michael Brittingham who is opposed to the application due to the intended use of AR-15s on the premises.

On a motion from Mr. Drewer and seconded by Mr. Bull, the Board of Zoning Appeals voted to approve the application SUP-2018-006 pursuant to Accomack County Code section 106-53(1) to permit a recreational facility as further defined in the NOAAWIVA application and site plan as a gun range on Tax Map #27-A-333B for NOAAWIVA Sportsmen, Inc. with the following conditions: (1) within six months, the applicant must contact State and Federal Agencies to determine jurisdiction of environmental features; (2) within one year, the applicant must provide proof that the site plan as submitted will be implemented and provide a calendar for construction; and (3) only two additional equipment sheds may be located on the property and permitted by the Building Department, if necessary.

G. SUP-2018-007

G. Christian IV & Channing Warrick Governator – Tax Map # 84-11-A

Chairman Nock called the hearing into order which was initiated by George Christian & Channing Warrick Governator for a Special Use Permit pursuant to section 106-53(2) of the Accomack County Code for a camping facility, which shall be one permanent cottage; said property is already a recipient for a Special Use Permit for a Tourist Home which was granted September 2016. The property is located at 16488 Preston Ln. in Onancock and is zoned Agricultural.

Mrs. Nunez presented the staff report. She stated that the applicant met with the County staff who was seeking a yurt; however, the County ordinance does not include a use type of yurt. Therefore, County staff reviewed the County ordinance and felt that the most applicable use type to seek a special use permit was a camping facility under Section 106-53 (2). The applicant did not select this; it was a decision by County staff.

She stated that the applicant has an SUP for a tourist home which requires the owner to live on the premises and the ability to rent rooms to up to 14 persons, according to the county zoning ordinance; however, the applicant has indicated that they are currently renting two bedrooms in their house at this time and are seeking an SUP for a yurt which would be a separate structure from the main house due to the fact that the applicant has two children and are reluctant to have additional people in the main residence. The

applicant is working with the building department to ensure that this is a permanent structure and in compliance with the building code.

Channing Guvernator and Chris Guvernator, the applicants, were sworn in by Chairman Nock. Mrs. Guvernator indicated that their intention is add a small cottage for short term rental; they have two current rental units in their house. Guests stay less than a week and primarily come from the Washington, DC /northern Virginia area. They are young professionals or early retirees. The intent is to give them a “slice of life” of Eastern Shore living. She indicated that one of their adopted children is from Kurdistan which is the originator/home of the yurt. Mr. Guvernator stated that he has spoken with his neighbors and understands their concerns that the property not be a camp ground. He would like to somehow restrict or narrow this permit to show that this is not a camping facility, to limit it to one permanent dwelling built to building code, the dwelling would be landscaped, and all permits required including septic.

Mr. Morrison provided some clarification on what is a yurt. This is an extension of the tourist home in terms of its actual use. Kiptopeke Campground has several yurts. From the County regulatory perspective, we are not viewing this as a permanent dwelling but only a residence for temporary visitors with a limitation on the # of days it can be used in a year. The site plan reflects only the residence and the proposed yurt and if there are any additional structures proposed that would require coming back for approvals.

Mr. Bull expressed concern about the view from the creek and that this structure is not compatible to the area or the Eastern Shore. He is concerned that this structure and its fabric composition would not be compatible to the area.

Mrs. Nunez reported that written correspondence has been received for this public hearing from the following: (1) Pete Lalor – concerned with the “camping facility designation”; (2) Kate Morgan – concerned with the designation of “camping facility” and about increased traffic; (3) Terris Kennedy & Nancy James – supportive of the application; and (4) Roberta & David Dean – not in support of the application; however, they offer some suggested conditions if the Board of Zoning Appeals is supportive of this application.

Mr. Guvernator stated that the building will be anchored and built to code, including withstanding 100 mph hurricane strength winds.

David Dean was sworn in by Chairman Nock. He stated that he does not feel a camping facility is appropriate; he questions the equivocation of permanent cottage to a yurt; concerned with environmental impacts to the creek and whether their existing septic

system can handle the potential load if the tourist home is fully occupied according to the County ordinance as well as this additional structure.

Mr. Nock closed the public hearing and opened up Board deliberations.

Mr. Bull stated that the Board had approved a business within this home previously. However, enlarging this business through this request by a separate structure does not compliment the neighborhood.

Mr. Drewer stated that he has concerns with the canvas material and it being wind resistant.

Mr. Gayle asked if the BZA should approve this would it be precedent setting. Mr. Morrison responded in the affirmative but all applications are taken on a case by case basis. He views this application as an expansion of an existing business.

Mrs. Kerns stated that this does not appear to fit within the traditional development style and pattern of the neighborhood.

Mr. Nock stated that he would like the applicants to reach out to their neighbors again and propose a refinement of conditions along with renderings/drawings with elevation and landscaping shown.

Mr. Lynn motioned to postpone the application and was seconded by Mr. Drewer. The motion was carried unanimously.

H. SUP-A-2018-001

Shore Aviation – Tax Map # 119-A-101

Mrs. Nunez stated that Shore Aviation LLC dba VA Hang Gliding had submitted an application for a hearing to amend Special Use Permit #150369 which was issued on May 6, 2015 and subsequently amended on November 1, 2017 relative to the fence improvements; the SUP conditions relative to the fence improvement require that the fence be extended an additional 400 feet to the South at the same height (8 ft.) and material (solid wooden) as the existing fence and perpendicular to the existing fence 200 feet to the East and at the same height (8) and material (solid wooden) as the existing fence. The applicant is requesting to amend this condition by allowing a vegetative screen along the last 100 feet to the South and perpendicular to the East for only 150 feet. The property is located at 16620 Coal Kiln Road, Painter and zoned Agricultural. The hearing was due noticed and advertised as required. However, the applicant's attorney had submitted an e-mail on Tuesday, May 1, 2018 withdrawing this application. The withdrawal is accepted and no further action is required.

6. OTHER MATTERS

A. Considering changing July meeting date due to Fourth of July holiday

Mrs. Kerns motioned to move the July 4, 2018 meeting to July 18, 2018 at 10:00 a.m. and was seconded by Mr. Drewer. The motion was carried unanimously.

B. Rules and Procedures for the Board of Zoning Appeals

Mrs. Nunez provided a draft Rules and Procedures for the Board of Zoning Appeals for the Board members to review. This item will be placed on the June 6, 2018 agenda for discussion.

7. NEXT MEETING

The next regular Board of Zoning Appeals meeting is scheduled for Wednesday, June 6, 2018 at 10:00 a.m. in the Accomack County Board Chambers, Room 104, in Accomac.

8. ADJOURNMENT

On a motion made by Mr. Bull and seconded by Mrs. Kerns, the meeting was adjourned at 12:25 p.m.