Minutes
Northampton County
Board of Zoning Appeals
February 5, 2013

This was a regular meeting of the Northampton County Board of Zoning Appeals (BZA) held on Tuesday, February 5, 2013, in the Board Chambers located at 16404 Courthouse Road in Eastville, Va.

Members present were Chair Susan Henderson, Kevin Kellam, Bonnie Nottingham, Eugene Bannister and Douglas Coburn.

Also in attendance were Melissa Kellam, Zoning Administrator; Katrina Hickman, Zoning Inspector; and Kay Downing, Administrative Assistant.

The Chair called the meeting to order at 10:30 a.m., established a quorum, and then introduced Board members and staff to the public.

Public Hearings

Since the agent for Variance 2013-01 was not yet present the Board agreed to hear Variance 2013-02 first.

A. **Variance 2012-02**: Edward & Carolyn Conklin have applied for a variance of 37 feet from the required 60-foot front yard setback in order to construct a single-family residence. The property, zoned ESD-RVR Existing Subdivision District-Rural Village Residential, is located in the Vaucluse Shores Subdivision on Blue Fish Lane and is described as Tax Map 38A2, double circle 1, parcel 209 containing 27,000 square feet of land.

Mr. Tommy Arnold, agent for the applicants, stated that the lot has no building envelope due to required setbacks. The front yard setback overlaps the 100-foot resource protection area buffer setback; therefore, a variance of 37 feet is being requested in the front of the lot. This will prevent the footprint of the house from intruding into the 50-foot waterward buffer area.

Ms. Kellam stated no objections have been received from adjoining property owners. She added that the lot was legally recorded in 1974 and then read staff recommendations as follows.

Recommendation:
The subject lot was recorded in August 1974, prior to the adoption of the Bay Act regulations. The Applicants propose to develop the lot to be used for a single-family residence with the necessary improvements associated with such use. The total footprint of the proposed dwelling, which includes the two (2) porches and attached garage will be 2,400 square feet, which is almost entirely within the 100-foot buffer area, with the exception of the northeast corner. Approximately one-half of the dwelling encroaches into the Front Yard Setback, to avoid

encroaching into the 50-foot waterward portion of the buffer area. The septic tank, drainfield, and driveway are outside of the 100-foot buffer area. When the 60-foot Front Yard Setback is located on the Project Drawing, it overlaps the 100-foot buffer area line, leaving no building envelope. Although a hardship does exist and the Applicants have made a reasonable request, the Applicants are seeking the variance to the Front Yard Setback to avoid encroachment into the 50-foot waterward portion of the buffer area, thereby preventing further detriment to the buffer function and the adjacent waterway. Staff recommends approval of the variance from the Front Yard Setback as presented.

The Chair called for public comments, none were received and the public portion of the hearing was closed.

When asked Ms. Hickman explained the right-of-way issues to the Board noting that the edge of the road cannot be used to determine the front setback line.

Action:

Motion was made by Mr. Coburn that the Board approve the application as submitted due to the odd shape and dimensions of the recorded parcel. Second was made Mr. Kellam and the motion carried unanimously.

The second hearing was called to order.

B. **Variance 2013-01**: The County of Northampton has applied for a variance to increase impervious coverage from 15% to 23.3% at the District Four Waste Collection Site located north of Eastville on Courthouse Road. The property, zoned A/RB Agriculture/Rural Business, contains 4.35 acres of land and is described as Tax Map 58, double circle A, parcel 13.

Ms. Kellam read a letter received from Price Clarke concerning the application which is attached as part of the official record.

Ms. Kellam then noted that staff did not provide recommendations on this matter since it was a county application; however, criteria for a variance were provided as follows.

Review Information:
Staff will not provide recommendations for Northampton County (NHCO) variance requests to the Board of Zoning Appeals. Instead, staff will highlight key points the Board of Zoning Appeals may use for their consideration of the request. NHCO proposes to develop the subject parcel as a waste collection site. NHCO has developed five other sites for waste collection and through the development and subsequent use of these facilities has refined the design of the paved areas to accommodate a safe and efficient vehicular traffic flow. Two parcels were purchased to locate this waste collection facility and the property lines for one parcel were vacated increasing the total area of the parcel to 4.35 acres. The site plan presented proposes 44,150 square feet of impervious surface. A substantial reduction of 15,727 square feet would be necessary to comply with the 15% limit greatly reducing the safety and efficiency. As with all variances a hardship must be demonstrated, but with recent changes to the VA State Code

language, this hardship no longer needs to approach confiscation. When granting a variance request the Board of Zoning Appeals must find that factors one through five above have been satisfied. Key points to considered which are very specific to this request are: (1) is the proposed use reasonable, (2) does the size of the property create undue hardship not shared by other properties in the district and same vicinity, (3) are there other opportunities for compliance with the regulations, and (4) does an extraordinary situations exists that would effectively prohibit or unreasonably restrict the use of the property.

Ms. Katie Nunez, County Administrator, presented the application. She presented additional information to the BZA including an aerial view of the Hare Valley facility. She noted that existing facilities did not have an impervious surface requirement, but the Board adopted new impervious surface lot regulations before this last facility was developed. Paving would be necessary to insure smooth traffic flow and prevent maintenance issues. She noted that the existing Hare Valley facility is also 5 acres and is comparable.

Mr. Coburn asked if the county had investigated purchasing additional land to enlarge the area for the proposed facility. Ms. Nunez explained that the property was obtained through eminent domain and acquiring additional land would result in an additional cost to the county.

Mr. Bannister asked if a shallow well would be installed at the facility. Ms. Nunez stated yes, which is the case at other facilities.

Mitigation requirements were discussed. Ms. Kellam stated that storm water best management practices would be required. It was noted that stormwater runoff would be channeled through swales or pipes. She verified that a retention pond would be similar to the one installed at the Bayview facility. When asked she stated that the maximum impervious surface allowed would be 25 percent of the lot. Ms. Hickman added that some industrial development would allow 60 to 75 percent of impervious surface.

Mr. Bannister questioned the appropriateness of the A/RB zoning on this parcel given its close proximity to business development in the neighborhood.

When asked, Ms. Nunez stated that the facility should be open in July.

The Chair called for public comments. None were received and the public hearing was closed.

Mr. Coburn questioned the hardship in this case except that the good of the public safety, health and welfare might be appropriate given the proposed use. Ms. Nottingham concurred noting the recycling aspects of the proposed facility.

The Chair noted that the variance is specific to the use of the land only for this project only.

Ms. Nottingham asked if the county sold the property could a different use be applied to the site using the same variance approval. Ms. Kellam explained that a different project would require new approvals.

Action:

Motion was made by Mr. Bannister to approve the variance as submitted. Second was made by Ms. Nottingham and the motion carried unanimously.

Statements from the Public: none.

Old Business: none.

New Business: none.

Zoning Administrator's Report

Ms. Kellam reported that no new applications have been filed to date; therefore, there would be no meeting of the Board in March.

Consideration of Minutes

The minutes of the November 6, 2012 were unanimously accepted as written upon motion by Mr. Bannister and second by Ms. Nottingham.

Adjourn

There being no other business the meeting was adjourned at 11:00 a.m.

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Chair Secretary