

**King and Queen County
Board of Zoning Appeals
Minutes
April 20, 2015**

**MINUTES
BOARD OF ZONING APPEALS
APRIL 20, 2015**

The Board of Zoning Appeals (BZA) of King and Queen County met in the King and Queen County Courts and Administration Building on April 20, 2015, at 6:00 P.M., with public notice having been published in the *Tidewater Review* and *Rappahannock Times* and written notice mailed to interested parties, as required by Section 15.2-2204 of the Code of Virginia, 1950, as amended. The following Board members and staff were present:

James Dabney
Robert Bland, IV
Bruce Taylor
Pam Ashely
Ann Marie Voight

Donna Sprouse, Assistant Zoning Administrator

**IN RE:
CALL TO ORDER**

Chair, Pam Ashley called the meeting of the Board of Zoning Appeals to order. Mrs. Sprouse determined that there was a quorum present with all members present.

**IN RE:
APPROVAL OF AGENDA**

Mrs. Ashley stated he would entertain a motion to approve the agenda. A motion was made by Mr. Bland to approve the agenda as presented, seconded by Mr. Dabney.

*Voting For: Dabney, Bland, Taylor, Ashley, Voight
Voting Against: None
Abstain: None*

**IN RE:
WELCOME NEWLY APPOINTED STEVENSVILLE BZA MEMBER – ANN
MARIE VOIGHT**

Mrs. Ashely welcomed Mrs. Voight, Stevensville representative to the BZA.

**IN RE:
APPROVAL OF MINUTES**

A motion was made by Mr. Dabney to approve the January 17, 2012 BZA minutes as written, seconded by Mr. Taylor.

*Voting For: Dabney, Ashley, Taylor
Voting Against: None
Abstain: Bland & Voight*

A motion was made by Mr. Taylor to approve the January 20, 2015 BZA minutes as written, seconded by Mr. Bland.

*Voting For: Dabney, Ashley, Taylor, Bland
Voting Against: None
Abstain: Voight*

**IN RE:
NEW BUSINESS**

**VARIANCE
VAR15-01, R. P. Hart, Jr.
Tax Map 1623-134R-656A**

Public Hearing Notice provided in the Tidewater Review and Rappahannock Times (April 1st & 8th) Public Hearing Notice provided again due to scrivener's error in the Tidewater Review & Rappahannock Times (April 16, 2015). Adjoining land owner notification provided by certified return receipt on April 3, 2015 and again due to scrivener's error on April 8, 2015.

Applicant: Samuel C. Hart
Owner: R. P. Hart, Jr.

Subject: The Planning and Zoning Department received an application for the Board of Zoning Appeals (“BZA”) on March 24, 2015 from Samuel C. Hart on behalf of R. P. Hart, Jr., requesting a variance from Zoning Ordinance, Article 5, Table 5.1, Minimum Dimensional Regulations for Primary Zoning Districts. The applicant states that in order to construct two grain storage bins to connect to the existing dryer and existing grain bin system on property owned by Mr. R. P. Hart, Jr., such request must be granted.

Premises: The subject property is located at 1358 Buena Vista Road, in the Buena Vista Magisterial District. The property is identified as County Tax Map Parcel No. 1623-134R-656A, consisting of approximately 5.25 acres. The property is zoned General Business. This lot is a pre-existing non-conforming parcel.

Mrs. Sprouse noted that Mr. Hart requests a variance from Zoning Ordinance, Article 5, Table 5.1, “Table of Minimum Dimensional Regulations for Primary Zoning Districts” to allow for the proposed construction of two 30’ round in diameter grain storage bins. According to the King & Queen County Zoning Ordinance, Article 5, Table 5.1, Table of Minimum Dimensional Regulations for Primary Zoning Districts, required setbacks for the General Business (GB) zoning district is as follows: 100’ from the road frontage, 50’ from each side property line, and 50’ from the rear. The current owner is seeking a 45’ front setback encroachment to allow for a 55’ front setback for the construction of two 30’ round grain storage bins.

Mrs. Sprouse read the following code sections from Article 20, Appeals...

“Section 3-462(B)(2) of the Zoning Ordinance, a variance may be granted when the property owner demonstrates the property was acquired in good faith and (a) the exceptional size or shape of the property existed when the Zoning Ordinance became effective [8-12-1986]; (b) due to physical conditions of the property, or the use or development of an adjoining property, strict application of the terms of the Ordinance effectively would prohibit or unreasonably restrict use of the property; or (c) where the BZA finds that granting the variance would alleviate a clearly demonstrable hardship approaching a “taking,” as opposed to the applicant seeking a special privilege or convenience.”

“Section 3-462(B)(3), the BZA may grant the variance if it finds that (a) strict application of the Ordinance would produce an undue hardship; (b) the hardship is not shared generally by adjoining properties; and (c) granting the variance will not be substantially detrimental to adjoining properties, and the character of the district will not be changed by granting the variance.”

“Section 3-467, A special exception or variance granted by the Board of Zoning Appeals shall lapse and be of no effect if, after the expiration of one (1) year from the date of such action by the BZA, no construction or change in use pursuant to such special exception or variance has taken place; provided that the BZA may, for good cause shown, specify a longer period of time in conjunction with its action to grant a special exception or variance.”

Mrs. Ashley opened the public hearing and asked if there was anyone in the audience that would like to speak.

Mr. Samuel Hart, stated that what Mrs. Sprouse stated about summed it up. He also stated that in 2007, his family applied for a variance to allow for a 50' setback for the construction of grain storage bins, which was approved. Mr. Hart stated that he is willing to answer any and all questions that the Board may have. He also stated that his father and grandfather is also present tonight.

Hearing no further comments, Mrs. Ashley closed public comment period.

Mr. Dabney stated that he didn't have any issues with the request. He said that if it was approved in 2007, why would this time be any different. Mr. Dabney made a motion to approve VAR15-01 as submitted, seconded by Mr. Bland.

Voting For: Bland, Ashley, Taylor, Dabney, Voight

Voting Against: None

Abstain: None

**IN RE:
NEW BUSINESS**

**VARIANCE
VAR15-02, CMH Homes C/o Oakwood Homes
Tax Map 1632-55R-441A**

*Public Hearing Notice provided in the Tidewater Review and Rappahannock Times
(April 1st & 8th). Adjoining land owner notification provided by certified return receipt
on April 3, 2015.*

Applicant: Trisha Hite

Owner: CMH Homes, C/o Oakwood Homes

Subject: The Planning and Zoning Department received an application to the Board of Zoning Appeals ("BZA") on March 30, 2015 from Trisha Hite on behalf of CHM Homes Inc., d.b.a. Oakwood Homes, requesting a variance from Zoning Ordinance, Article 5, Table 5.1, Minimum Dimensional Regulations for Primary Zoning Districts. The applicant states that in order to locate a manufactured home on the said parcel, such request must be granted.

Premises: The subject property is located on State Route 631, Fleets Mill Road, in the Newtown Magisterial District. The property is identified as County Tax Map Parcel No. 1632-55R-441A. The property consists of approximately 2.5 acres and is zoned Agricultural.

Mrs. Sprouse noted that Mrs. Hite requests a variance from Zoning Ordinance, Article 5, Table 5.1, Table of Minimum Dimensional Regulations for Primary Zoning Districts to meet the front yard setback of 100' feet for primary structures in the Agricultural Zoning District. Mrs. Hite is requesting the following: (1) a 25-foot variance to allow for a front yard setback of 75 feet. Mrs. Sprouse noted that the home that was previously placed on the parcel in the 90's was not 100' from the front property line. She stated that because the home had been removed for more than a 2 year period, the grandfathering was lost. She stated that staff met the applicant on the site and verified that because of the ravine and overhead power line easement, a variance would be required.

Mrs. Sprouse read the following code sections from Article 20, Appeals...

“Section 3-462(B)(2) of the Zoning Ordinance, a variance may be granted when the property owner demonstrates the property was acquired in good faith and (a) the exceptional size or shape of the property existed when the Zoning Ordinance became effective [8-12-1986]; (b) due to physical conditions of the property, or the use or development of an adjoining property, strict application of the terms of the Ordinance effectively would prohibit or unreasonably restrict use of the property; or (c) where the BZA finds that granting the variance would alleviate a clearly demonstrable hardship approaching a “taking,” as opposed to the applicant seeking a special privilege or convenience.”

“Section 3-462(B)(3), the BZA may grant the variance if it finds that (a) strict application of the Ordinance would produce an undue hardship; (b) the hardship is not shared generally by adjoining properties; and (c) granting the variance will not be substantially detrimental to adjoining properties, and the character of the district will not be changed by granting the variance.”

“Section 3-467, A special exception or variance granted by the Board of Zoning Appeals shall lapse and be of no effect if, after the expiration of one (1) year from the date of such action by the BZA, no construction or change in use pursuant to such special exception or variance has taken place; provided that the BZA may, for good cause shown, specify a longer period of time in conjunction with its action to grant a special exception or variance.”

Mrs. Ashley opened the public hearing and asked if there was anyone in the audience that would like to speak.

Mrs. Trisha Hite, stated that she represents Oakwood Homes and has a client that really wants to move back to King & Queen County. As a King & Queen resident herself, she has always thought that this property was a nice property if taken care of properly. She noted that she and her staff tried locating other areas of the property to place this home,, however it was impossible. She noted that they were able to keep a 15' distance from the overhead power lines while pushing the home back to allow for a 75' front setback on one corner of the home and 100' on the other end of the home. She asked that the BZA please approve this request, as she convinced her boss to purchase the lot.

Mr. Bland asked Mrs. Hite if she would need the variance if the overhead power lines were not present. Mrs. Hite replied that she may not.

Hearing no further comments, Mrs. Ashley closed public comment period.

Mr. Dabney made a motion to approve VAR15-02 as submitted, seconded by Mr. Taylor.

Voting For: Bland, Ashley, Taylor, Dabney, Voight

Voting Against: None

Abstain: None

IN RE:

BOARD MEMBER COMMENTS

Hearing no comments, Mrs. Ashley asked if staff had any comments. Mrs. Sprouse stated that it may seem that she reads a lot of the printed material that they receive in their packet, which she is well aware its material they are able to read, however it was information that must be read and placed on the record in case of an appeal.

IN RE:

ADJOURN

Hearing no further comments, Mrs. Ashley stated he would entertain a motion to adjourn the meeting. A motion was made by Mrs. Ashely, seconded by Mr. Taylor to adjourn the meeting.

Pam Ashley, Chair