

MINUTES OF THE MEETING MARCH 8, 2012  
CHINCOTEAGUE BOARD OF ZONING APPEALS

MEMBERS PRESENT:

Mr. Arthur Leonard  
Mr. Robert Cherrix  
Mr. Jack Gilliss  
Mr. Edward Moran  
Mr. Jesse Speidel  
Mr. Mike McGee  
Mr. Donald Thornton

MEMBERS ABSENT:

Kenny L. Lewis, Staff Support

1. Call to Order

Mr. Leonard called the meeting to order at 7:30 pm.

2. Approval of Minutes of Meeting Held January 12, 2012

Mr. Thornton motioned, seconded by Mr. Speidel to approve the minutes as presented. The motion was unanimously approved.

3. Appeal 03-12-1 A request from Jamie Hammond, agent for Anthony & Lucy Bergman, 6374 Pine Drive, for a variance from Article 3, section 3.4.7(1) of the zoning ordinance of the Town of Chincoteague. The agent has constructed a fence along the side lot line with a height of 5' +. Current zoning prohibits such fence to exceed 4' in height. Article 2, section 2.63 states "fence height is determined from natural undisturbed grade to the highest portion of the fence structure". The neighbors property is 1' + below grade of fence. This property is located in Residential District R-1.

4. Public Comments on Appeal

Jamie Hammon spoke on behalf of the Bergmans. He advised he was the construction superintendent of that project and was the one that obtained the permit for the fence.

Mr. Hammon advised the fence height from undisturbed height is what he is fighting tonight. Prior to placing the house, the lot was wooded, he had to clear the lot and remove stumps, therefore there was not much of the parcel that was not undisturbed.

Mr. Hammon advised that the center of the lot and the adjoining lot was used by him and Mr. Bobby Umphlett to store piles and other materials. The use of this

area caused a swell in the middle of the lot. The only undisturbed area on the lot was in the front right corner of the lot.

Mr. Thornton & Mr. Moran questioned Mr. Lewis if Mr. Hammon filled the neighbors lot so the fence was 4' in height on both side would that resolve this matter. Mr. Lewis advised you still have the issue of undisturbed grade.

Mr. Hammon advised the Board that it is impossible to determine the natural grade since all of the land was disturbance during construction. Mr. Lewis advised you can get that information off of the flood certificate that was done prior to placement of the dwelling.

Mr. McGee questioned Mr. Hammon if he filled to property in order to get the 4' height. Mr. Hammon advised yes and no.

Mrs. Barbara Early spoke on her behalf. Mrs. Early advised that where he has filled the lot, it has since flooded her property. The septic system can not be put in until the grading has been completed.

Mr. Moran questioned Mrs. Early what does she request Mr. Hammon to do. Mrs. Early advised that she would hope if 5 loads of dirt are needed, that he would pay for it. If fill is placed then it may cause flooding on her slab under the house.

Mr. McGee questioned if the Board denies the appeal, how does this resolve the fill problem. Mr. Lewis advised that the fill is not a Board issue, it's the fence height.

Mrs. Early advised she was willing to negotiate with the Bergmans.

#### 5. Board Action on Appeals

Mr. Thornton asked Mr. Hammon if the fence was 5' on one side and 4' on the other side, would a couple of truck loads of dirt solve the problem? Mr. Hammon felt the problem would be solved.

Mr. Speidel questioned Mr. Lewis when the ground is unlevel, does the fence have to go with the slope or can it be even across. Mr. Lewis advised it must go with the slope.

Mr. Cherrix requested that Mr. Hammon go back to the flood elevation certificate and pull the grade height from that.

Mr. Thornton questioned if the law was broken when he filled the lot. Mr. Lewis advised they should have gone to Accomack Soil and Sediment Control for a permit.

Mr. Gillis questioned if a fence can be on the property line. Mr. Lewis advised yes.

Mr. Cherrix motioned to deny the request. Second by Mr. Gillis. All in favor. Mr. McGee felt that due to not contacting Accomack Soil and Sediment Control prior to filling in the lot he opposes approval .

6. Appeal 03-12-2 A request from Chincoteague Hotel LLC, 4195 Main Street, for a variance from Article 7, section 7.13.1 of the Town of Chincoteague zoning ordinance. The petitioner wishes to place a 9'10" x 10'9" wall sign on the side/rear side of the structure. Current zoning allows 2- 25 square foot signs for waterfront properties. The proposed sign is 105.7 square feet in area. This property is located in Commercial District C-2.

7. Public Comments on Appeal

Mr. Justin Miller spoke on behalf of Chincoteague Hotel LLc. Mr. Miller advised that the Comfort Suites currently only has one sign. Part of the sign is used for community events . Mr. Miller questioned Mr. Lewis if he can have 2- 25 sq. ft. signs in addition to the 100 sq. ft of signage. Mr. Lewis advised that was correct.

Mr. Miller questioned how the pharmacy was allowed to have multiple signs for multiple businesses. Mr. Lewis advised that in the structure there are several different businesses, the zoning allows for each business to have a 25 sq. ft. sign.

Mr. Miller advised that Choice Hotels has minimum standards for signs and so does the town. He advised that where the sign is going, no neighbors would complain.

Mrs. Gail Parsons advised when she opened her business she purchased an old sign. She had to cut down on her business signs due to the old sign. She felt that the BZA should uphold the sign ordinance and not approve the appeal.

8. Board Action on Appeals

Mr. Moran asked if the reason for the new sign is so it can be seen from the causeway. Mr. Miller advised yes. Mr. Moran asked if the new sign would affect the Hampton Inn. Mr. Miller advised no.

Mr. Thornton questioned if the sign will be lighted. Mr. Miller advised yes.

Mr. Cherrix felt that the motel should install lights on that side of the building. When he comes on the island he can see the Hampton Inn but can not see the Comfort Suites. Mr. Miller advised that the Hampton Inn has had to cut some of the lights off because of customer complaints.

Mr. Leonard felt that most motels on the island only have one sign. Another issue with this sign is it is massive. Mr. Leonard does not see any problems with a sign on the waterfront provided it meets the criteria.

Mr. Gillis is concerned that when people are coming on the island that the large sign will be a distraction on the bridge.

Mr. McGee & Mr. Cherrix felt that the sign ordinance has been modified several times and the board should uphold the requirements of the ordinance.

Mr. Moran asked Mr. Lewis if he can place a 25 sq. ft. sign over the other 25 sq. ft. sign. Mr. Lewis advised yes he can, plus he has 28 sq. ft. left over from the permitted signage.

Mr. Thornton felt that he could put a 28 sq. ft. sign having the logo, 25 sq ft sign that says "Comfort", and a 25 sq. ft. sign that says "Suites".

Mr. Speidel requested that when he gets with Comfort Suites about the sign to get back with Mr. Lewis for review.

Mr. Speidel felt that the board should enforce the zoning regulations, however, the board must review if this request is common to other properties. Appeals are not straight forward.

Mr. Leonard felt that the appeal before them as presented, the sign is to large. He felt that a lot of businesses will be asking for the same thing. The proposed sign would defiantly be seen from the causeway.

Mr. Cherrix motioned to deny the request for a variance due to the sign exceeding that permitted. Second by Mr. Moran. Voting for; Mr. Moran, Mr. McGee, Mr. Leonard, Mr. Gilliss & Mr. Cherrix. Voting against: Mr. Thornton & Mr. Speidel. Motion carried.

9. Appeal 03-12-3 A request from Daniel Grosse, 5389 Main Street, for a special use permit from Article 3, section 3.5.1 of the Town of Chincoteague zoning ordinance. The petitioner wishes to operate a "Light Waterfront Seafood Industry" business. Current zoning allows such use by a special use permit. This property is located in Residential District R-2.

10. Public Comments on Appeal

Mr. Lewis made the Board aware that the applicant did not mail the notifications with return receipts. It appears that three of the people made no comment on the special use permit and there is no proof they received notice.

Mr. Lewis recommended that procedures be followed, that certified mail with return receipts be resubmitted to the Board.

Requested that the meeting be postponed until April 12, 2012. The Board agreed.

11. Adjournment

Mr. Leonard adjourned the meeting.

---

Arthur Leonard, Chairman

---