

BOARD OF ZONING APPEALS MEETING

A G E N D A

TOWN OF CHINCOTEAGUE

December 8, 2011 - 7:30 P.M. – Council Chambers - Town Hall

CALL TO ORDER

AGENDA ADOPTION:

1. Approval of Minutes of July 14, 2011

2. Public Participation

3. **Appeal 12-11-1** A request for 3 variances from Michael Starling, agent for Denver & Thelma Mears, 4241 Pension Street. The first request is from Article 3, section 3.6.1.(1) of the Town of Chincoteague's Zoning Ordinance. The petitioner wishes to relocate the property line between Parcels 210 & 211. The petitioner wishes to make Parcel 211 which is currently 10,525 sq. ft. in area to a more non-conforming lot of 9,651 sq. ft. in area. Current zoning requires a minimum lot size of 12,500 sq. ft. in area. The second request, from Article 3, section 3.6.3.(1), is to relocate the lot line on parcel 209 adjoining the main structure from a 9.42' side yard setback to a 6.48' side yard setback. Current zoning requires a minimum of 10' side yard setback. The third request is from Article 3, section 6.6.3. The petitioner wishes to eliminate the required two existing parking spaces on parcel 209. Current zoning requires a minimum of 2 parking spaces be on premises.

4. Adjourn:

FAXED
11-15-11

November 14, 2011

Eastern Shore Post
P.O. Box 318
Tasley, VA 23441

Dear Sirs:

The Town of Chincoteague request the following notice of public hearing be published in the Eastern Shore Post on Friday November 25, 2011 and Friday December 2, 2011:

Public Notice

The Board of Zoning Appeals of the Town of Chincoteague will hold a public hearing on December 8, 2011 at 7:30 p.m. in the Council Chambers located at 6150 Community Drive to receive public comments and views on the following zoning matters:

Appeal 12-11-1 A request for 3 variances from Michael Starling, agent for Denver & Thelma Mears, 4241 Pension Street. The first request is from Article 3, section 3.6.1.(1) of the Town of Chincoteague's Zoning Ordinance. The petitioner wishes to relocate the property line between Parcels 210 & 211. The petitioner wishes to make Parcel 211 which is currently 10,525 sq. ft. in area to a more non-conforming lot of 9,651 sq. ft. in area. Current zoning requires a minimum lot size of 12,500 sq. ft. in area. The second request, from Article 3, section 3.6.3.(1), is to relocate the lot line on parcel 209 adjoining the main structure from a 9.42' side yard setback to a 6.48' side yard setback. Current zoning requires a minimum of 10' side yard setback. The third request is from Article 3, section 6.6.3. The petitioner wishes to eliminate the required two existing parking spaces on parcel 209. Current zoning requires a minimum of 2 parking spaces be on premises.

Kenny L. Lewis
Zoning Administrator

MINUTES OF THE MEETING AUGUST 11, 2011
CHINCOTEAGUE BOARD OF ZONING APPEALS

MEMBERS PRESENT:

Mr. Robert Cherrix
Mr. Jack Gilliss
Mr. Edward Moran
Mr. Donald Thornton

MEMBERS ABSENT:

Mr. Arthur Leonard
Mr. Jessi Speidel
Mr. Mike McGee

Kenny L. Lewis, Staff Support

1. Call to Order

Mr. Moran called the meeting to order at 7:40 pm.

2. Approval of Minutes of Meeting Held December 9, 2010

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

3. Appeal 07-11-1 A variance request from John Vaile, parcel #30A4-2-34B, 4197 Sunrise Drive Circle. The applicant request to construct a deck/screen porch on the rear of the structure located at the above address. The new 14' x 20' addition will be placed 29' from the rear lot line. Current zoning requires a minimum rear yard setback of 35 feet. The property is zoned Residential District R-1.

4. Public Comments

Mr. Vaile spoke on his behalf. Mr. Vaile advised he would like to have a deck to the back of his residence. At a later date he would like to make the deck a screen porch.

Mr. Vaile advised that his house was placed on the property to meet the Town's zoning ordinance. He was not aware that he could have placed the residence closer to the front lot line. The covenants allowed the front setback to be 30' instead of the 50' zoning required.

Mr. Vaile advised he has a large family and needs the size addition he requested.

5. Board action on appeal

Mr. Cherrix questioned if he could accept a 10' x 20' addition instead of the requested 14'. Mr. Vaile advised he would like to have the 14' requested.

Mr. Thornton felt that the Board is not denying his right to use the property. Mr. Vaile has the right to place a smaller addition provided the setbacks are met. Mr. Thornton feels that Mr. Vaile has not presented any hardship in this case.

Mr. Moran and Mr. Gilliss agreed that no hardship has been showed.

Mr. Thornton motioned, seconded by Mr. Cherrix to deny this request. All in favor. Motion carried.

6. Adjournment

Mr. Moran adjourned the meeting at 8:15 p.m.

Edward Moran, Acting Chairman

CHINCOTEAGUE, VIRGINIA
APPEAL TO THE
BOARD OF ZONING APPEALS

Paul
11/19/11
CK# 7940

APPEAL CASE NUMBER: 12-11-1

FEE: \$ 450

I, MICHAEL STARLING, LS

AGENT FOR DENVER & THELMA MEDRS WOULD LIKE TO FILE THE FOLLOWING APPEAL WITH THE BOARD OF ZONING APPEALS BASED UPON THE NOTED STATE CODE(S):

TITLE 15.2, CODE OF VIRGINIA, 1959 (AS AMENDED)

(CHECK ALL THAT APPLY)

1. AN APPEAL OF AN OFFICER, REQUIREMENT, DECISION OR DETERMINATION OF AN ADMINISTRATIVE OFFICER.
2. AN APPEAL OF A DECISION OF THE ZONING ADMINISTRATOR.
3. AN INTERPRETATION OF THE DISTRICT ZONING MAP, IN THAT THERE IS AN UNCERTAINTY AS TO THE LOCATION OF A DISTRICT BOUNDARY.
4. AN APPEAL FOR A VARIANCE. THE APPLICANT IS REQUIRED TO SHOW THAT A LAND USE HARDSHIP EXIST. SEE ATTACHED EXAMPLE SHEET FOR HARDSHIP CRITERIA.
5. AN APPEAL FOR A VARIANCE OF THE FLOOD PLAIN MANAGEMENT ORDINANCE

BOARD OF ZONING APPEALS USE ONLY:

MEETING DATE: DEC. 8, 2011

APPEAL ACTION:

APPROVED

DENIED

CONDITIONAL: _____

BZA, SECRETARY

DATE: _____

(1.) RULES AND REGULATIONS TO FILE FOR APPEAL:

(A.) APPLICANTS OR THEIR AGENTS SHALL NOT CONTACT ANY BOARD MEMBER TO DISCUSS THE CASE PRIOR TO THE SCHEDULED PUBLIC HEARING OF THEIR APPEAL.

(B.) FAILURE OF APPLICANT OR AGENT TO APPEAR BEFORE THE BOARD MAY BE REASON FOR DENIAL.

(C.) APPLICANT MUST POST APPEAL NOTICE FURNISHED BY THE ZONING ADMINISTRATOR ON SAID PROPERTY, VISIBLE FROM THE STREET.

(D.) APPLICANT SHALL SUBMIT A PLOT PLAN, TO SCALE, OF THE SAID PROPERTY IDENTIFYING THE FOLLOWING:

- 1. ALL EXISTING STRUCTURES LOCATED ON SAID PROPERTY.**
- 2. PROPOSED NEW STRUCTURES.**
- 3. SETBACKS FROM FRONT, SIDES AND REAR PROPERTY LINES.**
- 4. LOCATION OF EXISTING SEPTIC, DRAIN FIELDS OR CESSPOOLS.**
- 5. LOCATION OF EASEMENTS, RIGHT-OF-WAYS AND PUBLIC ROADS THAT ADJOIN OR ENTER SAID PROPERTY.**

(E.) THE CHINCOTEAGUE BOARD OF ZONING APPEALS HAS SEVEN (7) MEMBERS. TO OBTAIN APPROVAL FOR A VARIANCE OR SPECIAL USE PERMIT, FOUR (4) MEMBERS MUST VOTE IN YOUR FAVOR.

(F.) ANY DECISION OF THE BOARD OF ZONING APPEALS MAY BE APPEALED TO THE CIRCUIT COURT OF ACCOMACK COUNTY WITHIN 30 DAYS OF RECEIPT OF THE DECISION MADE.

(G.) THE BZA MAY IMPOSE SUCH CONDITIONS REGARDING THE LOCATION, CHARACTER AND OTHER FEATURES OF THE PROPOSED STRUCTURE OR USE AS IT MAY DEEM NECESSARY IN THE PUBLIC INTEREST.

(2.) NOTIFICATION OF PROPERTY OWNERS:

ALL APPLICATIONS SHALL BE ACCOMPANIED BY WRITTEN COMMENTS FROM OWNERS OF REAL ESTATE AS FOLLOWS:

(A.) VARIANCE:

APPLICANTS SHALL SUBMIT WRITTEN COMMENTS FROM ALL ADJOINING PROPERTY OWNERS INCLUDING THE PROPERTY OWNERS ACROSS THE STREET(S) OR ACROSS BODIES OF WATERS ADJACENT TO OR DIVIDING TWO PROPERTIES. THE BZA MAY REQUIRE THE APPLICANT TO SUBMIT WRITTEN COMMENTS FROM ADDITIONAL PROPERTY OWNERS.

(B.) WRITTEN NOTIFICATION OF APPEAL:

PROPERTY OWNERS NOT AVAILABLE FOR WRITTEN COMMENT SHALL BE NOTIFIED OF THE PROPOSED REQUEST BY CERTIFIED MAIL.

A COPY OF THE REGISTERED MAIL AND THE CERTIFIED MAIL RECEIPT MUST BE SUBMITTED AT THE TIME OF FILING THE APPEAL.

RETURN RECEIPT OF THE CERTIFIED MAIL MUST BE GIVEN TO THE ZONING ADMINISTRATOR A MINIMUM OF 5 DAYS PRIOR TO THE MEETING DATE.

PLEASE PRINT



TOWN OF CHINCOTEAGUE, INC.

October 13, 2011

Shoreline Surveyors
P. O. Box 952
Onley VA 23418

RE: Denver & Thelma Mears

Dear Mr. Starling:

I reviewed the proposed plat submitted for the relocation of lot lines for Denver & Thelma Mears on property located on Pension Street.

By relocating the lot line between parcels 210 and 211 you would be creating a "more" non-conforming lot. Parcel 211 is currently 10,525 square feet in area. By adjusting the lot line said parcel would be reduced to 9,651 square feet in area according to your drawing. This would make the parcel non-conforming by ~~2,849~~ square feet in area. Current zoning requires a minimum lot size of 12,500 square feet in area.

Additionally, the proposed plat identifies the relocation of the lot line between parcels 210 and 209. The relocation of this lot line reduces the side yard setback of the structure located on Parcel 209. Currently the structure is located 9.42' from the side lot line. The proposed setback is 6.48'. Current zoning requires a minimum 10' setback for a main structure.

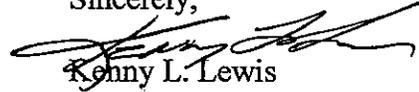
By relocating the lot line between parcels 210 & 209 it appears that the off street parking for this parcel would be eliminated. Current zoning requires that a residence maintain a minimum of 2 parking spaces.

Due to the above information, I must deny the approval of your proposed plat. You have the right to appeal my decision or apply for a variance with the local Board of Zoning Appeals. Such appeal must be submitted within 30 days of this notice. Failure to apply

within the 30 days voids such right.

The appeal fee is \$450.00. This fee is non-refundable weather your appeal is granted or denied.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenny L. Lewis", written over the printed name.

Kenny L. Lewis
Zoning Administrator

THE PROPERTY IN WHICH THIS APPEAL IS SUBMITTED IS LOCATED AT (911 ADDRESS)
4241 & 4249 PENSION AVE., TAX MAP # 03045 - A - 211

03045 - A - 210
03045 - A - 209
~~03045 - A - 208~~

THIS PROPERTY IS OWNED BY:

NAME: DELVER H. & THELMA MEARS

ADDRESS: 4241 PENSION AVE.

CITY, STATE, ZIP: CHINCOTEAGUE, VA 23336

PHONE: 336-6070

WORK PHONE: _____

HAS ANY PREVIOUS APPLICATION OR APPEAL BEEN FILED IN CONNECTION WITH THESE PREMISES?

NO

YES, EXPLAIN; _____

IS THIS APPEAL FILED DUE TO A ZONING VIOLATION IDENTIFIED BY THE ZONING ADMINISTRATOR?

NO

YES, IF THE VIOLATION HAS NOT BEEN CORRECTED, EXPLAIN WHY; _____

ARTICLE(S) AND SECTION(S) THAT APPLIES TO YOUR APPEAL:

- (1.) ARTICLE: III SECTION: 3.6.1.(1)
REQUIRES: 12,500 \$ MINIMUM AREA
REASON FOR YOUR APPEAL: TRYING TO ELIMINATE ENCROACHMENTS & SETBACK VIOLATION ON ADJOINING LOT. (9,651 sq ft)
- (2.) ARTICLE: III SECTION: 3.6.2.(1)
REQUIRES: 10' SIDE YARD SETBACK
REASON FOR YOUR APPEAL: TRYING TO ELIMINATE ENCROACHMENT OF DRIVEWAY OVER PROPERTY LINE. (648')
- (3.) ARTICLE: VI SECTION: 6.6.3
REQUIRES: OFFSTREET PARKING FOR TWO MOTOR VEHICLES
REASON FOR YOUR APPEAL: EXISTING LOT DOES NOT CURRENTLY HAVE TWO OFFSTREET SPACES, EXCEPT ON ADJOINING PROPERTY.

GUIDELINES USED BY THE BOARD OF ZONING APPEALS IN GRANTING A VARIANCE

In order for the Board of Zoning Appeals to review your request for a variance, the threshold question for the BZA in considering an application for a variance "is whether the effect of the zoning ordinance upon the property under consideration, as it stands, interferes with all reasonable beneficial uses of the property, taken as a whole". If the answer is in the negative, the BZA has no authority to go further.

- yes
- no

Please answer the following questions:

(1). Does the strict application of the ordinance result in unnecessary or unreasonable hardship to the property owner?

yes, Explain;

THE LOTS & STRUCTURES PRE-DATE THE ADOPTION OF THIS ORDINANCE. THE ENCROACHMENT OF THE D/C & DRIVEWAY COULD CAUSE TURMOIL BETWEEN FUTURE PROPERTY OWNERS.

no

(2). Is the need for the variance shared generally by other properties?

yes, Explain;

no

(3). Is the variance contrary to the intended spirit and purpose of the ordinance, and would result in substantial justice being done.

yes, Explain;

WHILE THE REQUESTED REVISIONS TO THE PROPERTY LINES CONTRADICTS THE ZONING ORDINANCE, IT IS, IN OUR OPINION, FAIR TO TAKE INTO ACCOUNT EXISTING CONDITIONS TO ALLOW FOR VARIANCES.

no

All of the above questions must be answered. Failure to complete the above questions shall result in your application not being processed.

Onley
 Onley, Virginia
 234189998
 5176530418 -0099
 (757)787-2985 10:20:25 AM

Product Description	Sales Receipt Sale Unit Qty Price	Final Price
LEESPORT PA 19533 Zone-3 First-Class Large Env 4.60 oz. Expected Delivery: Sat 11/12/11 Return Rcpt (Green Card) Certified Label #: 70092250000192226520		\$1.68
		=====
Issue PVI:		\$6.83
CHINCOTEAGUE ISLAND VA 23336 Zone-1 First-Class Large Env 4.60 oz. Expected Delivery: Sat 11/12/11 Return Rcpt (Green Card) Certified Label #: 70092250000192226513		\$1.68
		=====
Issue PVI:		\$6.83
ENDICOTT NY 13760 Zone-4 First-Class Large Env 4.60 oz. Expected Delivery: Mon 11/14/11 Return Rcpt (Green Card) Certified Label #: 70092250000192226506		\$1.68
		=====
Issue PVI:		\$6.83

Total: \$20.49
 Paid by: Personal Check \$20.49

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Restricted Delivery Fee (Endorsement Required)	\$ 0.00	
Total Postage & Fees	\$ 6.83	11/10/2011

Sent To: *John Lukach*
 Street, Apt. No., or PO Box No.
 City, State, ZIP+4

PS Form 3800, August 2006 See Reverse for Instructions

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Postage	\$ 1.68	0418
Certified Fee	\$ 2.85	03
Return Receipt Fee (Endorsement Required)	\$ 2.30	Postmark Here
Restricted Delivery Fee (Endorsement Required)	\$ 0.00	
Total Postage & Fees	\$ 6.83	11/10/2011

Sent To: *Donna Rae Koeske*
 Street, Apt. No., or PO Box No.
 City, State, ZIP+4

PS Form 3800, August 2006 See Reverse for Instructions

U.S. Postal Service™
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OFFICIAL USE

Postage	\$ 1.68	0418
Certified Fee	\$ 2.85	03
Return Receipt Fee (Endorsement Required)	\$ 2.30	Postmark Here
Restricted Delivery Fee (Endorsement Required)	\$ 0.00	
Total Postage & Fees	\$ 6.83	11/10/2011

Sent To: *Thomas Loose*
 Street, Apt. No., or PO Box No.
 City, State, ZIP+4

PS Form 3800, August 2006 See Reverse for Instructions

PLEASE INDICATE YOUR APPROVAL OR DISAPPROVAL OF THE PROPOSED LAND USE AS STATED IN THE APPLICATION BY CHECKING THE APPROPRIATE SPACE. SPECIFY THE LOCATION OF YOUR PROPERTY; NORTH, EAST, SOUTH OR WEST OF THE APPLICANTS PROPERTY.

TAX MAP # 3045-A-212 LOCATION OF PROPERTY WEST, NORTH & EAST

NAME: UNION BAPTIST CHURCH OF CHINCOTEAGUE

ADDRESS: 211 CHURCH ST. PHONE: _____

COMMENTS: _____

APPROVE REQUEST DISAPPROVE REQUEST

SIGNATURE: William E. Jones DATE: 11-8-11

TAX MAP # 3045-A-208 LOCATION OF PROPERTY EAST

NAME: DELNER & THELMA MEARS

ADDRESS: 4241 PENSION ST. PHONE: 757-336-6070

COMMENTS: _____

APPROVE REQUEST DISAPPROVE REQUEST

SIGNATURE: Delner Mear DATE: 11/1/2011

TAX MAP # 3045-A-218 LOCATION OF PROPERTY SOUTH (ACROSS STREET)

NAME: KELLY & STACE THORNTON

ADDRESS: 4228 PENSION ST PHONE: 757-336-2661

COMMENTS: _____

STACY THORNTON'S SIGNATURE

COMMENTS:

APPROVE REQUEST DISAPPROVE REQUEST

SIGNATURE: Stacy Thornton DATE: 11/3/11

TAX MAP # 3045-A-207 LOCATION OF PROPERTY EAST

NAME: THOMAS LOOSE

ADDRESS: 4259 PENSION ST. PHONE:

COMMENTS:

APPROVE REQUEST DISAPPROVE REQUEST

SIGNATURE: _____ DATE:

COMMENTS: _____
() APPROVE REQUEST () DISAPPROVE REQUEST
SIGNATURE: _____ DATE: _____

TAX MAP # 3025-A-222 LOCATION OF PROPERTY SOUTH (ACROSS STREET)
NAME: DONNA ROESKE
ADDRESS: 4258 PENSION ST PHONE: _____
COMMENTS: _____
() APPROVE REQUEST () DISAPPROVE REQUEST
SIGNATURE: _____ DATE: _____

STACY THORNTON SIGNED WRONG PAGE. SEE NEXT PAGE

APPROVE REQUEST DISAPPROVE REQUEST

SIGNATURE: _____ DATE: _____

TAX MAP # 3045-A-219 LOCATION OF PROPERTY SOUTH (ACROSS STREET)
3045-A-220

NAME: RAWLEY & ELIZABETH GILMORE

ADDRESS: 4210 PENSION ST. PHONE: _____

COMMENTS: _____

APPROVE REQUEST DISAPPROVE REQUEST

SIGNATURE: Rawley M. Gilmore DATE: NOV. 8 2011

TAX MAP # 3045-A-221 LOCATION OF PROPERTY SOUTH (ACROSS STREET)

NAME: JOHN & JILL LUKACH

ADDRESS: 4248 PENSION ST. PHONE: _____

COMMENTS: _____

APPROVE REQUEST DISAPPROVE REQUEST

SIGNATURE: _____ DATE: _____

~~TAX MAP # 3045-A-222 LOCATION OF PROPERTY SOUTH (ACROSS STREET)~~

~~NAME: DONNA ROESKE~~

~~ADDRESS: 4258 PENSION ST~~

Shoreline Surveyors

November 10, 2011

Mr. & Mrs. Thomas G. Loose
139 Bossler Road
Leesport, PA 19533

**RE: #4241 Pension Street – Mears Property
Shoreline Surveyors Job #: 11091**

Dear Mr. & Mrs. Loose,

I will be filing an application to the Town of Chincoteague, on behalf of Mr. & Mrs. Denver Mears, to request a variance to the Zoning Ordinance for their property located on Pension Street. The Town Ordinance requires that all adjoining property be notified and provide comments. The Mears have been unable to contact you at your residence on Pension Street, so I have included in this package all pertinent information regarding their request.

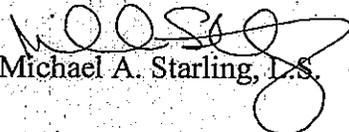
Please find enclosed:

- Print of the proposed Boundary Line Adjustment Plat
- Copy of letter by Town Zoning Administrator denying request to alter lines
- Copy of Application to appear before BZA
- Envelope addressed to Shoreline Surveyors

Please review the information and mark the application either Approve or Disapprove and provide any comments that you may have. Using the enclosed envelope, mail the application back to my attention prior to December 1, 2011.

Please do not hesitate to call should you have any questions or concerns.

Sincerely,


Michael A. Starling, L.S.

Shoreline Surveyors

November 10, 2011

Mrs. Donna Rae Roeske
4258 Pension Street
Chincoteague, Virginia 23336

**RE: #4241 Pension Street – Mears Property
Shoreline Surveyors Job #: 11091**

Dear Mrs. Roeske,

I will be filing an application to the Town of Chincoteague, on behalf of Mr. & Mrs. Denver Mears, to request a variance to the Zoning Ordinance for their property located on Pension Street. The Town Ordinance requires that all adjoining property be notified and provide comments. The Mears have been unable to contact you at your residence on Pension Street, so I have included in this package all pertinent information regarding their request.

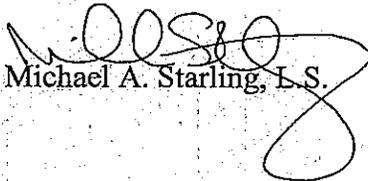
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Please do not hesitate to call should you have any questions or concerns.

Sincerely,


Michael A. Starling, L.S.

Shoreline Surveyors

November 10, 2011

Mr. & Mrs. John Daniel Lukach
48 Walker Street
Endicott, New York 13760

RE: #4241 Pension Street – Mears Property
Shoreline Surveyors Job #: 11091

Dear Mr. & Mrs Lukach,

I will be filing an application to the Town of Chincoteague, on behalf of Mr. & Mrs. Denver Mears, to request a variance to the Zoning Ordinance for their property located on Pension Street. The Town Ordinance requires that all adjoining property be notified and provide comments. The Mears have been unable to contact you at your residence on Pension Street, so I have included in this package all pertinent information regarding their request.

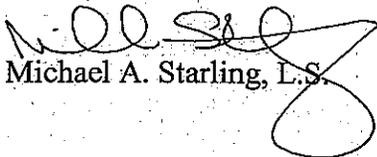
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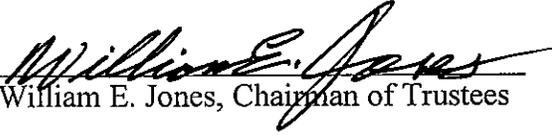
Sincerely,


Michael A. Starling, L.S.

**Trustees of
Union Baptist Church
6365 Church Street
Chincoteague, VA 23336**

November 7, 2011

On a unanimous vote of the Trustees November 7, 2011 we have no problem with Denver and Thelma Mears' plan to change their lot lines between their own properties on Pension Street, Chincoteague, Virginia; as long as, it does not effect or change any of the lot lines between the properties of Union Baptist Church and the properties of Denver and Thelma Mears.


William E. Jones, Chairman of Trustees