Present:

Steven Laffoon – Chairman
Stephen Walters
Gamaliel Rose – arrived at 7:05
Edward Haile
Ned Stephenson

Also Present:

Kelly McKnight – Planning and Zoning Office Manager
Brian Barnes – Zoning Administrator

Call to Order

Chairman Laffoon called the March 28, 2024, meeting of the Essex County Board of Zoning Appeals to order.

Roll Call

Ms. McKnight called the roll. A quorum was met.

Approval of Minutes

Chairman Laffoon asked if there were any changes or modifications to the January 25, 2024, minutes? Mr. Stephenson made a motion to accept the minutes as presented. Mr. Walters seconded the motion. AYES: 5 NAYES: 0 ABSENT: 0

Public Comments

None

Public Hearings

V2400002 – H & M Construction of Virginia

Mr. Barnes presented the request for a variance to establish a 50-foot setback on this parcel instead of a 100-foot setback.

Mr. Laffoon made the statement that he looked at the property and that a power line runs right behind it. Right behind the back shed is a steep drop off and he doesn’t see how he can build with a 100-foot setback there.
Morgan Lankford from H & M Construction of Virginia, LLC is the applicant. He said that the line that was shown on the drawing is the ravine, but there is not any water in it.

Mr. Laffoon said that there are two structures on the site and these structures are proposed to be demolished as part of the project.

Mr. Lankford said yes, he can take those down.

Mr. Walters asked Mr. Lankford if he was the owner and Mr. Lankford answered yes, he was.

Mr. Lankford said that he is trying to get the variance because they can’t really build anything without moving the power line. He said that Rappahannock could move it, but it would be a whole lot easier to get the variance. You would have to pay Rappahannock to move it.

Mr. Walters said, “what about the accessory unit?

Mr. Lankford said that he has someone wanting to move to the county and that has a mother-in-law that wants to move to the county. That is a mother-in-law suite. Once built, the new owner is going to own both buildings.

Mr. Stephenson asked when did they buy the property.

Mr. Lankford said about two years ago.

Mr. Laffoon asked if anyone else would like to speak about this.

Ella Johnson, who lives at 396 Johnville Road and is an adjacent property owner came forward. She didn’t have anything to speak to because she was just trying to get the information and wanted to thank the BZA for all the information and clarification that was provided.

Chairman Laffoon asked the question, Do I hear a motion?

Mr. Walters said that he would like to move to accept a variance of 50 feet as drawn from the baseline, which would be 65 feet from the center line. The only other one is that do we need a variance on a density.

Chairman Laffoon asked for any discussion on the motion or an acceptance.

Mr. Stephenson said that he doesn’t believe a variance is necessary. The only plat of record that is available to us is a one-acre lot. So, it is a one-acre lot unless proved otherwise. There is no variance needed on a one-acre lot, so he is conforming in that regard. The lot was purchased as a non-conforming lot and as standards require that we can’t grant a variance that for a hardship that a landowner created themselves. We are not denying him the use of the lot and I don’t think a variance is needed in this case.

Mr. Haile moved that we reject the variance. Mr. Stephenson seconded the motion to deny the variance. 3 AYES 1 NAYE 1 ABSTAIN 0 ABSENT.
Land DEVELOPMENT & ZONING APPLICATION
DEPARTMENT OF BUILDING & ZONING
202 S Church Lane
P O Box 1079
Tappahannock, VA 22560
(804) 443-4951
(804) 445-8023 fax

CASE NUMBER: VA400002 PERMIT NUMBER: __________________________

1. TYPE OF REQUEST - Check all/any that apply.
   ☐ Rezoning: From __________________________ To: __________________________
   ☐ Site Construction Plan ☐ Major - Name of Development: __________________________
   ☐ Minor - Name of Development: __________________________
   ☐ Conditional Use Permit (ordinance section):
   ☐ Subdivision
     Types: ☐ Minor ☐ Family ☐ Major
     ☐ Boundary line adjustment/Lot Consolidation
     ☐ Preliminary Name & Phase/Section: __________________________
     ☐ Final/Record Name & Phase/Section: __________________________
     ☐ Final/Record Name: __________________________
   ☐ Land Disturbance
   ☐ Right-of-way Vacation
   ☐ Administrative Appeal (zoning/building):
   ☐ Zoning Variance/Special Exception: Specify ordinance section: __________________________
   ☐ Subdivision Variance: Specify ordinance section: __________________________

☑ Zoning Permit - GENERAL INFORMATION FOR ALL ZONING PERMITS:
   Tax Map Number: 46-374 Site Address: JAMESTOWN ROAD
   Water/Sewer Supply: ☐Well/Septic ☐ Central ☐ Public
   Existing Land Use: __________________________ Proposed Land Use: __________________________
   Proposed Building Use: __________________________
   ☐ New Building ☐ Addition ☐ Change-in-Use/Modification ☐ Accessory Structure

Residential - Zoning District: A2 Magisterial District: __________________________
   Subdivision Name:
   ☐ Single-Family Dwelling Size (Length by Width) ______ Height ______ No. of Stories: ______
   ☐ Mobile Home Size (Length by Width) ______ Height ______
   ☐ Setbacks for Principal Building - Required: Front ______ Rear ______ Side ______
   ☐ Proposed: Front ______ Rear ______ Side ______
   ☐ Accessory Building Size (Length by Width) ______ Height ______ No. of Stories: ______
   ☐ Setbacks for Accessory Building - Required: Rear ______ Left side ______ Right Side ______
   ☐ Proposed: Rear ______ Left side ______ Right Side ______
   Existing Impervious Percentage: ______ Post Impervious Percentage: ______

Commercial - Zoning District: __________________________
   Type of Structure: __________________________
   Size Length ______ Width ______ Height ______
   Accessory Building Size (Length by Width) ______ Height ______ (ft.)
   Setbacks - Required: Front ______ Rear ______ Left side ______ Right Side ______
   Proposed: Front ______ Rear ______ Left side ______ Right Side ______

*NOTE: All measurements in feet (round to nearest whole foot). Impervious % is the sum of the square feet of all areas that is covered by roofs, sidewalks, driveways, decks, or accessory structures divided by the total square footage of the lot. Example: a 1 acre lot = 43560 sq.

Effective July 1, 2018
Land DEVELOPMENT & ZONING APPLICATION

CASE NUMBER: \(\sqrt{2400002}\) PERMIT NUMBER: 

1. TYPE OF REQUEST – Check all/any that apply.
   - Rezoning: From ____________________________ To: ____________________________
   - Site Construction Plan □Major - Name of Development: __________________________
     □Minor - Name of Development: __________________________
   -Conditional Use Permit (ordinance section):
   -Subdivision
     □Minor □Family □Major
     □Boundary line adjustment/Lot Consolidation
     □Preliminary Name & Phase/Section:
     □Final/Record Name & Phase/Section:
     □Final/Record Name:
   -Land Disturbance □ Chesapeake Bay Exception □Major WQIA □ Minor WQIA
   -Right-of-way Vacation □ Major WQIA □ Minor WQIA
   -Administrative Appeal (zoning/building):
   - Zoning Variance/Special Exception: Specify ordinance section: 36.222 and 36.2
   -Subdivision Variance: Specify ordinance section:

   □ Zoning Permit - GENERAL INFORMATION FOR ALL ZONING PERMITS:
     Tax Map Number: 46-374 Site Address: JONVILLE ROAD
     Water/Sewer Supply: □Well/Septic □Central □Public
     Existing Land Use: ____________________________ Proposed Land Use: ____________________________
     New Building □ Addition □ Change-in-Use/Modification □ Accessory Structure

   Residential - Zoning District: □ A □ Z Magisterial District: ____________________________
   Subdivision Name: ____________________________
     □ Single-Family Dwelling Size (Length by Width) _______ Height _______ No. of Stories: _______
     □ Mobile Home Size (Length by Width) _______ Height _______
     □ Setbacks for Principal Building - Required: Front _______ Rear _______ Side _______
     □ Accessory Building Size (Length by Width) _______ Height _______ No. of Stories: _______
     □ Setbacks for Accessory Building -Required: Rear _______ Left side _______ Right Side _______
   Existing Impervious Percentage: ____________ Post Impervious Percentage: ______

   Commercial - Zoning District: ____________________________
   Type of Structure: ____________________________
   Size Length _______ Width _______ Height _______
   Accessory Building Size (Length by Width) _______ Height _______ (ft.)
   Setbacks - Required: Front _______ Rear _______ Left side _______ Right Side _______
   Proposed: Front _______ Rear _______ Left side _______ Right Side _______

*NOTE: All measurements in Feet (round to nearest whole foot). Impervious % is the sum of the square feet of all areas that is covered by roofs, sidewalks, driveways, decks, or accessory structures divided by the total square footage of the lot. Example: a 1 acre lot = 43560 sq.
2. APPLICANT INFORMATION

OWNER(s) OF RECORD (use additional sheets if more than one-party)

HGM Construction of Virginia 804-822-5483

Owner: U.C. DAYTIME PHONE NUMBER

9510 Bird Dog Drive, Mechanicsville VA 23116
MAILING ADDRESS, CITY, STATE, ZIP CODE

Fax Number

E-mail Address

Applicant (if different from owner)
NAME

Applicant

MAILING ADDRESS, CITY, STATE, ZIP CODE

Fax Number

E-mail Address

Agent/Contractor (if different from owner/applicant)

NAME

Applicant

MAILING ADDRESS, CITY, STATE, ZIP CODE

Fax Number

E-mail Address

3. PROPERTY INFORMATION (FOR REZONINGS, SITE PLANS, SUBDIVISIONS, CONDITIONAL USE, SPECIAL EXCEPTIONS & VARIANCES)

<table>
<thead>
<tr>
<th>Tax Map Number</th>
<th>44E-37A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subdivision Name</td>
<td></td>
</tr>
<tr>
<td>Section</td>
<td></td>
</tr>
<tr>
<td>Block</td>
<td></td>
</tr>
<tr>
<td>Lot</td>
<td></td>
</tr>
<tr>
<td>Total Acreage</td>
<td>0.19</td>
</tr>
<tr>
<td>Physical Address</td>
<td></td>
</tr>
<tr>
<td>Current Zoning</td>
<td>A-2</td>
</tr>
<tr>
<td>Existing Structures</td>
<td>Yes, 2 sheds unusable</td>
</tr>
<tr>
<td>Proposed Utilities</td>
<td>Municipal</td>
</tr>
<tr>
<td>Acreage of Request</td>
<td></td>
</tr>
</tbody>
</table>
4. NARRATIVE - REQUIRED FOR ALL REZONINGS, CONDITIONAL USE, VARIANCES, SPECIAL EXCEPTIONS AND APPEALS. THE NARRATIVE SHALL DESCRIBE THE NEED AND/OR REASONS FOR THE APPLICATION AND HOW THE REQUEST IS CONSISTENT WITH THE GOALS AND OBJECTIVES OF THE COMPREHENSIVE PLAN.

5. SIGNATURE(S)

I/we have read this completed application, understand its intent and freely consent to its filing. The information provided is accurate to the best of my/our knowledge. I understand that the county may approve, conditionally approve, approved with modifications or deny the request for which I am applying. Furthermore, I grant permission to the department of building and zoning and any other authorized government agents to enter the property and make such investigations as they deem necessary to evaluate the request and ensure that conditions placed on the request have been implemented and/or maintained as proscribed by the approving authority. Additionally, if outside review is needed by the county to evaluate this request I acknowledge and agree to reimburse the county of Essex for these outside review agency costs.

[Signature]
Owner/Applicant/Agent Signature

[Signature]
Owner/Applicant/Agent Signature

[Signature]
Owner/Applicant/Agent Signature

[Signature]
Owner/Applicant/Agent Signature

Date
2-15-24

Date
2-15-24

Date

Date

Date

6. APPROVAL/DISAPPROVAL

☐ APPROVED AUTHORIZED SIGNATURE: ___________________________ DATE: ___________________________

☐ DISAPPROVED AUTHORIZED SIGNATURE: ___________________________ Date: ___________________________

☐ REASONS FOR DISAPPROVAL:

__________________________________________________________________________________________

__________________________________________________________________________________________

IF DISAPPROVED/DENIED: Any person aggrieved by the disapproval of this application may appeal to the Board of Zoning Appeals* in accordance with provisions of the Essex County Zoning Ordinance. Such an Appeal must be filed with the Zoning Administrator on approved application forms within thirty (30) days from the date of this denial. Application shall be accompanied by a filing fee of $250.00, made payable to the County of Essex for the Administrative Appeal. This decision in written order shall be final and unappeasable if not appealed within thirty (30) calendar days from the date of this letter.

*NOTE: DENIAL OF BOARD OF ZONING APPEALS, BOARD OF SUPERVISORS, AND PLANNING COMMISSION DECISION(S) MUST BE FILED WITH THE ESSEX COUNTY CIRCUIT COURT WITHIN 30-DAYS OF THE DENIAL AS PROVIDED BY THE CODE OF VIRGINIA, 1950, AS AMENDED.
6. **FEES**

<table>
<thead>
<tr>
<th>Service</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rezoning</td>
<td></td>
</tr>
<tr>
<td>Conditional Use Permit</td>
<td></td>
</tr>
<tr>
<td>Site Construction Plan</td>
<td></td>
</tr>
<tr>
<td>Subdivision</td>
<td></td>
</tr>
<tr>
<td>Major</td>
<td></td>
</tr>
<tr>
<td>Minor</td>
<td></td>
</tr>
<tr>
<td>Family</td>
<td></td>
</tr>
<tr>
<td>Preliminary/Tentative</td>
<td></td>
</tr>
<tr>
<td>Final/Record</td>
<td></td>
</tr>
<tr>
<td>Right-of-way Abandonment</td>
<td></td>
</tr>
<tr>
<td>Bay Act Exception</td>
<td></td>
</tr>
<tr>
<td>Major/Minor WQIA</td>
<td>$400.00</td>
</tr>
<tr>
<td>Zoning/Subdivision Variance</td>
<td></td>
</tr>
<tr>
<td>Zoning - Administrative Appeal</td>
<td></td>
</tr>
<tr>
<td>Building – Appeal</td>
<td></td>
</tr>
<tr>
<td>Land Disturbance</td>
<td></td>
</tr>
<tr>
<td>Major/Minor WQIA</td>
<td></td>
</tr>
<tr>
<td>Zoning Permit</td>
<td></td>
</tr>
</tbody>
</table>

**Total Fees Collected**

*NOTE: AN APPLICATION SHALL NOT BE DEEMED OFFICIALLY FILED UNTIL ALL REQUIRED PLANS, PLATS, FEES AND SUPPORTING DOCUMENTATION ARE SUBMITTED TO THIS DEPARTMENT. INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED.*
We are requesting a 50-foot variance because the parcel currently has an old power line running through it and with the current setback of 100 foot it would interfere with the current placement of the power line. We would like to avoid moving the power line from where it currently sits. We have a family interested in moving to the county that would like to build a home and mother-in-law suite on the property. We would like to fulfill this request for them.
SURVEY OF ONE ACRE OF LAND ON RT. 611 ABOUT 1 MILE S.W. FROM DOWNSVILLE TO BE CONVEYED FROM CARRIE WIGHT TO WILBERT A. GODFREY JR. AND WIFE.

4/8/43

T. H. WARNER, S.C.S.
TAPPAHANNOCK, VA.
0 JOHNVILLE RD

Location 0 JOHNVILLE RD  Mblu 46/37/A/
Acct# 5146  Owner H&M CONSTRUCTION OF VIRGINIA LLC
Taxable Status Non-Exempt  Class Sngl Fam Res - Suburban
Assessment $20,500  Appraisal $20,500

PID 4360  Building Count 1

Current Value

<table>
<thead>
<tr>
<th>Valuation Year</th>
<th>Improvements</th>
<th>Land</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>$500</td>
<td>$20,000</td>
<td>$20,500</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Valuation Year</th>
<th>Improvements</th>
<th>Land</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>$500</td>
<td>$20,000</td>
<td>$20,500</td>
</tr>
</tbody>
</table>

Owner of Record

Owner H&M CONSTRUCTION OF VIRGINIA LLC  Sale Price $13,000
Co-Owner  Certificate 2023
Address 9510 BIRD DOG LN  Book & Page /
MECHANICSVILLE, VA 23116  Sale Date 02/27/2023

Ownership History

<table>
<thead>
<tr>
<th>Owner</th>
<th>Sale Price</th>
<th>Certificate</th>
<th>Book &amp; Page</th>
<th>Instrument</th>
<th>Sale Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>H&amp;M CONSTRUCTION OF VIRGINIA LLC</td>
<td>$13,000</td>
<td>2023</td>
<td>/</td>
<td>01</td>
<td>02/27/2023</td>
</tr>
<tr>
<td>GOLDEN WILBERT A JR ET UK</td>
<td>$0</td>
<td>082288</td>
<td>00</td>
<td>01</td>
<td>04/23/2022</td>
</tr>
</tbody>
</table>

Building Information

Building 1: Section 1

Year Built:
<table>
<thead>
<tr>
<th>Field</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Living Area</td>
<td>0</td>
</tr>
<tr>
<td>Replacement Cost</td>
<td>$0</td>
</tr>
<tr>
<td>Building Percent</td>
<td>Good</td>
</tr>
<tr>
<td>Replacement Cost</td>
<td></td>
</tr>
<tr>
<td>Less Depreciation</td>
<td>$0</td>
</tr>
</tbody>
</table>

**Building Attributes**

<table>
<thead>
<tr>
<th>Field</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Model</td>
<td></td>
</tr>
<tr>
<td>Style</td>
<td>Vacant Land</td>
</tr>
<tr>
<td>Grade</td>
<td></td>
</tr>
<tr>
<td>Stories</td>
<td></td>
</tr>
<tr>
<td># Units</td>
<td></td>
</tr>
<tr>
<td>Roof Type 1</td>
<td></td>
</tr>
<tr>
<td>Roof Type 2</td>
<td></td>
</tr>
<tr>
<td>Roof Cover 1</td>
<td></td>
</tr>
<tr>
<td>Roof Cover 2</td>
<td></td>
</tr>
<tr>
<td>Roof Cover 3</td>
<td></td>
</tr>
<tr>
<td>Exterior Wall 1</td>
<td></td>
</tr>
<tr>
<td>Exterior Wall 2</td>
<td></td>
</tr>
<tr>
<td>Exterior Wall 3</td>
<td></td>
</tr>
<tr>
<td>Heat System</td>
<td></td>
</tr>
<tr>
<td>Heat Fuel 1</td>
<td></td>
</tr>
<tr>
<td>Heat Fuel 2</td>
<td></td>
</tr>
<tr>
<td>Heat Fuel 3</td>
<td></td>
</tr>
<tr>
<td>AC Type</td>
<td></td>
</tr>
<tr>
<td>Interior Wall 1</td>
<td></td>
</tr>
<tr>
<td>Interior Wall 2</td>
<td></td>
</tr>
<tr>
<td>Interior Wall 3</td>
<td></td>
</tr>
<tr>
<td>Interior Floor 1</td>
<td></td>
</tr>
<tr>
<td>Interior Floor 2</td>
<td></td>
</tr>
<tr>
<td>Interior Floor 3</td>
<td></td>
</tr>
<tr>
<td>Interior Floor 4</td>
<td></td>
</tr>
<tr>
<td>Total Room(s)</td>
<td></td>
</tr>
<tr>
<td>Bedroom(s)</td>
<td></td>
</tr>
<tr>
<td>Full Bath(s)</td>
<td></td>
</tr>
<tr>
<td>Half Bath(s)</td>
<td></td>
</tr>
<tr>
<td>Extra Fixtures</td>
<td></td>
</tr>
<tr>
<td>Extra Kitchen(s)</td>
<td></td>
</tr>
<tr>
<td>Fireplace(s)</td>
<td></td>
</tr>
<tr>
<td>Chimney(s)</td>
<td></td>
</tr>
<tr>
<td>Foundation 1</td>
<td></td>
</tr>
<tr>
<td>Foundation 2</td>
<td></td>
</tr>
</tbody>
</table>

**Building Layout**

Building Sub-Areas (sq ft)

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>No Data for Building Sub-Areas</td>
</tr>
</tbody>
</table>

**Building Photo**

[Building Photo](https://images.vgsi.com/photos/EssexVAPhotos/default.png)
<table>
<thead>
<tr>
<th>Extra Features</th>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>No Data for Extra Features</td>
<td></td>
</tr>
</tbody>
</table>

**Land**

**Land Use**
- **Use Code**: 200V
- **Description**: SF D - Suburban - Vac
- **Zone**
- **Neighborhood**: D
- **Alt Land Appr**: No
- **Category**

**Land Line Valuation**
- **Size (Acres)**: 1
- **Frontage**: 0
- **Depth**: 0
- **Assessed Value**: $20,000
- **Appraised Value**: $20,000

**Outbuildings**

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
<th>Sub Code</th>
<th>Sub Description</th>
<th>Size</th>
<th>Value</th>
<th>Bldg #</th>
</tr>
</thead>
<tbody>
<tr>
<td>SHED</td>
<td>Shed</td>
<td>MT</td>
<td>Metal</td>
<td>0.00</td>
<td>$400</td>
<td>1</td>
</tr>
<tr>
<td>SHED</td>
<td>Shed</td>
<td>IMP</td>
<td>Implement</td>
<td>0.00</td>
<td>$100</td>
<td>1</td>
</tr>
</tbody>
</table>

**Valuation History**

### Appraisal

<table>
<thead>
<tr>
<th>Valuation Year</th>
<th>Improvements</th>
<th>Land</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>$500</td>
<td>$20,000</td>
<td>$20,500</td>
</tr>
<tr>
<td>2020</td>
<td>$200</td>
<td>$20,000</td>
<td>$20,200</td>
</tr>
<tr>
<td>2019</td>
<td>$200</td>
<td>$20,000</td>
<td>$20,200</td>
</tr>
</tbody>
</table>

### Assessment

<table>
<thead>
<tr>
<th>Valuation Year</th>
<th>Improvements</th>
<th>Land</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>$500</td>
<td>$20,000</td>
<td>$20,500</td>
</tr>
<tr>
<td>2020</td>
<td>$200</td>
<td>$20,000</td>
<td>$20,200</td>
</tr>
<tr>
<td>2019</td>
<td>$200</td>
<td>$20,000</td>
<td>$20,200</td>
</tr>
</tbody>
</table>
BOARD OF ZONING APPEALS STAFF MEMORANDUM:

DOCKET: March 28, 2024, 7pm, Essex County School Board Meeting Room

CASE NUMBER/NAME:

Request for Variance # V2400002
Tax Map # 46-37A, .79 acres, zoned A-2
H&M Construction of Virginia, LLC.
9510 Bird Dog Lane
Mechanicsville, VA 23116

DISCUSSION:

Recently, the applicants met with county staff following the recordation of a new boundary survey on the subject parcel. The applicants expressed the desire to establish a single-family dwelling on this parcel but were aware that due to the shape and size of the parcel there would be some difficulties meeting the setbacks as required by Essex County Zoning Ordinance. Staff advised that the property owners think about what they wish to do and that authorization for almost any size dwelling would come only from the Board of Zoning Appeals in the form of a variance from the front setback requirements.

On February 15, 2024, the applicants made application to request a variance from the Board of Zoning Appeals in order to pursue the aforesaid single-family residence. The subject parcel is somewhat pie shaped and has its widest point along the VDOT right of way (ROW), Johnville Road. Going away from the ROW the lot tapers down to a point with an iron rod. A 100’ road setback is required in this district. This setback, when measured on this parcel places any permitted structure either immediately adjacent to or underneath the overhead power lines serving this parcel and the adjacent properties preventing any structure from being located in that area. If a structure moves behind this area, the available building size might be one structure around 22’ by 22’, more or less.

There are two structures currently located on this site. Both of these structures are within the side or front setbacks to some measurable degree. These structures are proposed to be demolished as part of this project.

STAFF ANALYSIS:

The current request for variance is pursuant to Essex County Zoning Ordinance Section 36.222, table 36.2.E. This section requires a 100’ setback from a property line facing a public road for a principal structure and 30’ side and 30’ rear setbacks for this parcel. Any variance request to the
Board of Zoning Appeals shall be conducted in conformance with Section 36.41 of the Essex County Zoning Ordinance, (2) Variance, which reads:

(2) Variance.

a. To authorize upon appeal or original application a variance, as defined in the Code of Virginia, § 15.2-2201, from the terms of this Ordinance when the strict application of the Ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and if the applicant proves through a preponderance of evidence that a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship; provided that the spirit of this Ordinance shall be observed and substantial justice done.

b. No such variance shall be heard except after notice and hearing as provided by the Code of Virginia, § 15.2-2204.

The current setback requirements would place the principal structure partly or completely underneath the existing overhead electrical lines and likely within the side setbacks unless the structure was very narrow. In order to satisfy the ordinance requirement of section 36.41(2), an applicant or application/case must show that:

1. The strict interpretation of the Ordinance restricts the utilization of the property.

2. The need for a variance would not be shared generally by other properties.

3. Literal enforcement of this Ordinance will result in unnecessary hardship, provided that the spirit of the ordinance is observed and substantial justice done.

The Board must ensure that the above three questions are tested and answered in the affirmative for an approval decision to be rendered in this case. The Board may utilize all available information and documentation as well as questions of the applicant in order to answer the ordinance requirements. A motion for approval or denial is advised to include the reasons based on the above requirements found in the ordinance.

The other point of variance relief that would be required involves the side setback. The side setback required currently in the A-2 District is 30 feet for interior side setbacks.

The Board of Zoning appeals should consider the minimum needed to afford the relief being asked for in this variance.

The Essex County Zoning Ordinance, section 36.156, Standards and Procedures, outlines Standards for Review under heading (d). These five standards detail the requirements in granting any variance:

1. The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance.
2. The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area.

3. The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practical the formulation of a general regulation to be adopted as an amendment to the Ordinance.

4. The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property.

5. The relief or remedy sought by the variance application is not available through the process for modification of a Zoning and Subdivision Ordinance pursuant to Code of Virginia, § 15.2-2286(A)(4) at the time of the filing of the variance application.

CONCLUSION:

This request for Variance has been applied for and advertised as required. As of the date of this memo, no protest has been forwarded to county staff. The lot was created prior to at least April 18, 1963, which pre-dates the Essex County Zoning Ordinance firmly establishing this as a prior non-conforming lot that has not changed shape, divided, or altered in any way from this status. In general, variances should not be granted for prior non-conforming parcels if suitable reasonable area can be found out of new setback areas for the desired or required construction. The applicant has submitted a new survey clearly depicting the desired footprint area of new construction, removal of existing improvements, and how the modern setbacks and electrical utility service impacts the buildable area. The Essex County Board of Zoning Appeals must now weigh the relief or remedy against the Standards and Procedures outlined above.
Historical Survey, April 18, 1963

/Agree/

DEED BOOK 46 - PAGE 198

Survey of 5 acres hereof of land on RT. 811 about 3 mile S.W. from Downsville to be conveyed from Carrie Watson to Wilbert A. George, Jr. and wife.

4/14/63

T. H. Warren, S.E.S.
TAPPAN HANCOCK
VA.

[Signature]
Recent survey plat with proposed 50-foot setback and current thirty-foot side setbacks
SITE PHOTOS/MAPS, ETC.:

Aerial photo of property
2. APPLICANT INFORMATION

OWNER(s) OF RECORD (use additional sheets if more than one-party)
Ham Construction of Virginia 804-822-5483
Owner U.C. DAYTIME PHONE NUMBER
9510 Bird Dog Drive, Mechanicsville VA 23116
MAILING ADDRESS, CITY, STATE, ZIP CODE

Fax Number

Applicant (if different from owner)

NAME
Applicant

MAILING ADDRESS, CITY, STATE, ZIP CODE

Fax Number

Agent/Contractor (if different from owner/applicant)

NAME
Applicant

MAILING ADDRESS, CITY, STATE, ZIP CODE

Fax Number

3. PROPERTY INFORMATION (FOR REZONINGS, SITE PLANS, SUBDIVISIONS, CONDITIONAL USE, SPECIAL EXCEPTIONS & VARiances)

<table>
<thead>
<tr>
<th>Tax Map Number</th>
<th>Total Acreage</th>
</tr>
</thead>
<tbody>
<tr>
<td>46-37A</td>
<td>0.79</td>
</tr>
</tbody>
</table>

Subdivision Name

Physical Address

Current Zoning

Proposed Utilities

Existing Structures

Yes, 2 sheds unusable

Acreage of Request

Effective July 1, 2018
**New Business**
None

**Old Business**
None

**Miscellaneous**
None

**Adjourn**
Chairman Laffoon adjourned the meeting.

______________________________
Steven Laffoon - Chairman