

ESSEX COUNTY BOARD OF ZONING APPEALS  
MEETING OF August 24, 2023, AT 7:00 P.M.  
109 CROSS STREET  
TAPPAHANNOCK, VIRGINIA 22560  
MINUTES

**Present:**

Steven Laffoon –Chairman  
Stephen Walters  
Gamaliel Rose  
Edward Haile

**Also Present:**

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

**Absent**

Ned Stephenson

**Call to Order**

Chairman Laffoon called the August 24, 2023, 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 July 27, 2023 minutes? Mr. Rose made a motion to accept the minutes as presented. Mr. Haile seconded the motion. AYES: 4  
NAYES: 0 ABSENT: 1

**Public Comments**

None.

**Public Hearings**

V2300006 – Daniel Tignor

Mr. Bryan Barnes stated this is his first night with them. Offline he has gotten to speak with many of you and it has been a nice welcome. He has spoken with several of you about this project today and before. If there is anything he does as he does this, it will take some time to get used to how they want things done, what they want to see, what they don't want to see, please feel free to reach out. He is pretty

thick skinned and laid back so if there is something they like or want them to bird dog, that is his job, and he will try to put that in the document. This month both of these requests are pretty straight forward. He did keep the memo fairly simple. If they want him to go more into the weeds or less into the weeds just tell him and that is what he will try to do. With that being said the Tignor project is one that you have a big plat in front of you for. It is something that Mr. Hodges worked on a little bit before. Mr. Hodges had started the variance request, so he just tried to pick up where he was. They both met together on it. He has also talked with eh stamped professional, Mr. Dillard, about it before they placed this project before you. This is what staff would call a business item, a family farm, even estate planning, if you will. This is something a lot of farms go through even nowadays. You have farm related buildings on the site, you also have a residence on the site. As things transfer to the next generation, the next generation may want to live in the dwelling but does not want to have responsibility for the other structures on the property, grain bins, things of that nature. Riding by the site you can clearly tell that is the situation. That being stated we have a new zoning ordinance to deal with and new setback than they were when a lot of these were constructed. It is staff's opinion, and he mentioned in the memo, the surveyor has done the best job that he can to create a parcel for the children of the owner to have a few buildings that they might need without utilizing the other buildings or having them encumbered on their property. He has also drawn them in such a way that he is trying to abide by the newer setbacks where possible on sides and from the road, things of that nature. So, for that reason you have a recommendation for approval from staff.

Mr. Haile stated he has visited the site. Mr. Tignor had shown him a slightly different boundary line but these three buildings on the left are actually going to be on the property? Because he was shown a line that excludes those.

Mr. Barnes stated that he can discuss that with them. This is the plat he is going off of. Unless a date has changed or work has changed, he is not sure. He thinks since we advertised the request if you did have a minor change as long as it is within the scope of what has been advertised. HE thinks you could do that if it has changed slightly without having to table it.

Mr. Haile stated it struck him that Peele Dillard was trying to eliminate all buildings.

Mr. Barnes stated he couldn't answer that but would let them address it.

Mr. Peele Dillard stated he is representing Mr. Tignor and he stood up to make sure that they had the right copy of the plat. The two carports and a shed is correct to be on the property. Brian gave it to you in a nutshell on the write-up, on the narrative. He simply put on there what Daniel is trying to do. He wants to give this property to his daughter and son-in-law. They want to borrow money and don't want to be encumbered by the whole farming operation. He would like to point out that the new ordinances we adopted in the county, almost the time he started working on this. If we hadn't adopted the ordinance, he wouldn't the standing before them tonight, he wouldn't need to be there. Basically, the building restriction lines for these out buildings is the same as the main dwelling which has caused this difficulty.

Mr. Rose asked if he was saying the ordinance has become more strict?

Mr. Dillard stated in this instance, yes.

Mr. Walters stated it used to be 5' under the old ordinance for accessory buildings in A-2. Now it is the same as the primary, so it went from 5' to 30'. He had a couple of questions on the application. On the plat we are working with they are looking for relief at the car port.

Mr. Dillard and Mr. Walters discussed the plat and where relief was needed.

Mr. Walters stated that in reading through the ordinance that this particular ordinance is kind of tailor-made for a family subdivision.

Mr. Rose made a motion to accept the request. Mr. Walters seconded the motion. AYES: 4 NAYES: 0 ABSENT: 1

#### V2300007 – David Stokes

Mr. Barnes stated this is the second request for tonight located in LaGrange Industrial Park. This is asking for a relief from the side setbacks for junkyards. As you see in the memo the new ordinance requires 150' setback from any public street, road, or highway. You can see in the staff analysis; he details what has happened on the site already with various other county actions which resulted in the junkyard that was preexisting being there and within the setback. What they need is to get this variance approved so that the cars that are there can remain in place. He recommends favorable consideration of this waiver of various requests because of the previous rezoning. It is likely that if this industrial park be planned out now in modern times, they would probably be a little more proactive on the planning commission side and design in setback relief. Looking at all of your lots and others in the industrial park, they are tight for most modern uses and not too far up the road you have guys repairing combines, boats and things like that. You need to park close to the road at times. The cars are rotating in and out, being recycled, being worked on what have you. It is just something that the flexibility that is required is kind of designed for your body to consider. With that he is recommending favorable consideration.

Mr. Haile asked what is the zoning for the right hand boundary of the property? Is that also industrial? Is it part of LaGrange? Because there are some residences back there further down the road.

Mr. Barnes stated they are a bit away, they are beyond the next parcel.

Mr. Haile stated that the houses are in there well beyond it but what is the zoning on the property immediately adjacent to Mr. Stokes lot? Behind it he has a ravine. His second question is that Mr. Stokes is under the impression that the street of the recycling center is a public street. He hasn't seen a plat, he knows it is public going in, but his street is actually a left turn and becomes a private rural access in a few hundred feet. He just wanted to know if we knew for sure it was public.

Mr. Barnes stated it does.

Mr. Haile stated the street is actually named in here something like LaGrange Industrial Park Rd. Are you sure that isn't the cul-de-sac?

Mr. Barnes stated as you drive in there, it is hard to tell, the way that it looks on plats is not what you see on the ground. It is not completely built out that way. There is a point it transitions but exactly where that is he is not sure.

Mr. Haile stated he said it went down to the power pole which would be far enough.

Chairman Laffoon stated about 5 years ago, when Mr. Stokes was in for a different request, that street was brought up and he thought at the time part of that street was deemed as county owned. He could be wrong but that is what it was at that BZA meeting. How far down that road it goes he is not sure. But in front of his property, he believes is County owned.

Mr. Barnes stated that he is making a note for the future for each one of the requests he is going to make sure that in their packet and definitely for what you will receive prior to the hearing. He will provide a master zoning plat of the whole area of any parcel you are considering that will show you any parcel nearby so you will know what they are zoned ahead of time.

Mr. Haile stated he forgot to see if there was a street sign number or name. Has everybody been notified?

Mr. Barnes stated yes and that is something that he wants to make sure each time he is before you with one of these. Traditionally he will let the Board or commission know what comment he has received and on this one he has no written comment to provide you. He has also had no phone objections come in or walk ins where anybody has objected to this. That may surface when you open the public hearing but as of right now, he has not had that.

Mr. Haile stated that there won't be a public hearing. If they approve the variance tonight as far as he knows.

Chairman Laffoon stated there will be a public hearing.

Mr. Barnes stated you will open up public comment, technically public hearing.

Mr. Haile stated a junkyard is a big deal. But is this really a junkyard?

Chairman Laffoon stated its classification is.

Mr. Barnes stated that is one of the frustrating things about being in the zoning business. We are given this book, and it is full of little boxes and we have to take a use over here and see what box it fits in. The term is junkyard, but it is really the only use we have in the book that describes putting inoperable vehicles on a piece of property. Either they are waiting to be worked on, being salvaged, so we are calling it a junkyard. It is not like what we thought of as a junkyard back in the day. At least hopefully not where cars are going to stay forever.

Mr. Rose stated this is up to 5 at a time in the conditional permit that the County supplies. It is a very high, very light volume operation in comparison to a junkyard.

Mr. Haile stated he has been out there several times to recycle. HE thinks Essex Recycling is one of the most interesting places you can go. Ho do you shed an automobile? He thought that was the language the Board of Supervisors used but Mr. Stokes said they shed those cars. He would like to see that and what the results are.

Mr. Barnes stated he does what he does best and lets others do what they do best. He doesn't know anything about shredding a car, but he would love to see it.

Mr. Haile stated the other deal, although out of the purview of this board, but what is the penalty for having 6 cars.

Mr. Barnes stated that is important for you to know. With the new ordinance, one of his goals in this position is to keep you abreast and posted. Some will come to you and others will not but just to let you know who this new ordinance is fitting both with the staff and with citizens. Some things are stricter and is that going to be a hardship for some? He doesn't know. As we get into this, and it works its way out. He is generally the type of person to counsel people to avoid a variance request if they can design their site in some other way. The County doesn't need to be burdened with request after request, 30 BZA requests a month is not good practice for anyone. That being said the junk car thing is a problem in the County. They get calls probably weekly of inoperable vehicles that are either an eyesore or causing a problem. Luckily, we have Tim Smith who is our zoning compliance guy and has been a big help. At any given time, we have 5 or 6 cases that they are having. The convenient way to recycle those vehicles in the County kind of goes hand in glove. The County doesn't want a bunch of junk cars around, there is a way to get a few bucks for it maybe, maybe not, but at least it is an easy way to get rid of them. As you know, in the old days they would have been shoved back in the woods, and that's not what we want to do anymore. The junk car thing can be a problem especially as the economy goes up and down as well as fuel prices. People at various times have vehicles that they want to hold on to, but it just goes downhill and is beyond repair.

Mr. Haile said in the conditional use permit from the Board of Supervisors stated they had to put a fence. A fence for 5 cars but he had to put it 1' inside the boundary line. Normally you put a fence on the boundary line and the adjacent landowner pays for half of it. That seems to be overly strict.

Mr. Rose stated they are trying to keep in line with section 36.387.

Mr. Barnes stated as they go through the ordinance, they have already found a few places and you may find some of your own, so please let us know. Where one part of the ordinance is telling you this and one part is telling you to that and they are running at cross purposes. He is jokingly calling it the zoning modification wish list of little tweaks or little errors that need to be modified. Hopefully in months but certainly within a year or so of this ordinance being new. If you find one let him know. The fence thing is tricky. You can put a fence right on a boundary line.

Mr. Haile stated if you put a fence 1' in your property you have surrendered 1' of land.

Mr. Barnes stated if they put one on their side then you have like the old 50's movies that the kids are running between the fences like no man's land. He can't speak to their reasoning to have it 1' off the line he is not sure what that was.

Mr. Walters stated to clarify the resolutions states no more than 1'.

Mr. Barnes stated so it could be on the line.

Mr. Walters stated on the line as long as it is within 1'.

Mr. Barnes stated they council people in the office that if you don't have a brand new survey with pins up be careful if you are putting a fence up because some of it may be torn down by neighbors if he things it is on his side.

Mr. Walters stated to follow up on Mr. Barnes' comment if you do have a wish list great. He is also on the planning commission and that is part of the job of the planning commission is setting and overseeing the zoning ordinance. They are going through the review of the comprehensive plan. If we have good input from folks. They have had people come to them already with similar things. If there are things that are causing people problems or don't make sense or maybe they were inadvertent or they want to change because of the workload. Let the planning commission know. HE stated that on the actual plat with the Road that is actually Mr. Clement Rd. If you look at some of the old maps.

They all looked at the map of the road.

Mr. Haile stated it looks like he has a cul-de-sac right between Essex Recycling and his lot we are discussing.

Mr. Walter stated it is an easement reserved for a cul-de-sac.

Mr. Haile asked what do we do with an easement reserved?

Mr. Walters stated in this case you can build a fence because a fence is a temporary structure. So that if at some po you actually want to put the cul-de-sac in you are required then to allow them to do that. He thinks allowing them to put a fence then and a gate is probably fine it is temporary. It is not like a permanent building.

Mr. Rose asked if the County had the authority to do that?

Mr. Walters stated that right now it is an easement and that is a legal restriction on your property. Like the power companies have easements on your property. They have the right to come in and do what they need to for the poles and is recorded with the deed that comes with the purchase of the property.

Mr. Rose asked if the County has the authority to allow the fence erection in the meantime.

Mr. Haile stated yes as a practical measure. Everything around here according to this plat is zone industrial there is no residential zoning anywhere.

Mr. Walters stated that at the planning commission meeting where they approved the conditional use permit which is the basis for the resolution. There was a neighbor who owned the property immediately adjacent to it, he didn't have a problem with it.

Mr. Haile stated that with or without a cul-de-sac if the man is only going to park 5 cars there. You can put 5 cars in an area 1/22 the size of this room.

Chairman Laffoon opened up the public hearing.

Mr. David stokes, owner of Essex Recycling, stated if they had any questions on that road, you can ask him. That has been cleared up in court. The judge stated that is a county, Road. The private property is

basically at the end of the gravel rd where the power poles are from there on. It is a county road between two pieces of property he owns. As far as the comment about how do you grind a car up. The company he is associated with, it takes about 15 seconds to grind a car. Last year they cleaned up 6.3 million lbs. of unwanted materials out of Essex County. In doing so they put back over one million dollars back into the local economy. When Tappahannock burned down, Joe Andrews cleaned it up and brought it to them. They separated and recycled every bit of the metals out of Tappahannock. Hopefully they do a little good for the town so he hope they all need him a little bit.

Mr. Walters stated at the planning commission the question that came up, asking if they are going to part any of these cars there or if they are just going to be stored there?

Mr. Stokes stated he hates being called a junkyard. He is a recycler. They are linked to DMV so when an automobile comes in, he taps into DMV to remove the VIN numbers. They check with State and Local Authorities to make sure the automobile has not been stolen. He removes the VIN number, and it is no longer an automobile anymore, it is a hunk of metal. It is not going to sit there. It will be there long enough to get processed and shredded. No piece of the car will be sold. No one will walk on his property and take a fender off and put it on another car for a fender.

Mr. Haile asked if it grinds it all up including the engine block?

Mr. Stokes stated it grinds it all up. They can grind a school bus up. He is not a junkyard. That car will come back as a steel beam.

Chairman Laffoon asked about the company and the 5 cars if he was going to have a machine on site?

Mr. Stokes stated the 5 cars came about through a misunderstanding. The guy asked him what he wanted to do, and he said when a customer comes in, his parking lot gets congested. He just needs a space to unload cars during the day to get them processed and they can shred them. He was asked how many he thought he would do, and he told them 1-10 cars per day, and he averages about 6. But the number works he is just going to unload them, place them there until the guys can process them and get rid of them.

Mr. Jeff Howeth stated he used to own property and was his neighbor up there. As far as the variance is concerned, he asked for the variance and got it. There are a lot of issues with the road and that whole backside of LaGrange is screwed up. He serves on a committee with John Magruder and at the time Michael Lombardo. He guesses now it is April Rounds, that is supposed to be investigating what the back end of LaGrange is and what happens with the Parker property. Next door was the Davis piece when Mike Parker Sr. came through and bought it was deemed A-2. It was not industrial. But if you look at the zoning maps before and after all the land is industrial. The Thompsons are back there, the Harris' are back there. There is a guy named Roy back there and we never did find his 3-5 acres. We kind of pieced it all together. Lots of anomalies of what is going on there. If you look at the plat that Mr. Stokes provided, the question about whether that is a right of way or not for the County. Your Board of Supervisor just took that plat, doesn't it say 50' easement on that road? That is not a right of way, it is an easement, and they refer back to the plat book when they created the industrial park. But even the most current surveyor doesn't know what it is.

Mr. Haile stated they use the term loosely, it says 50' easement.

Mr. Howeth stated he will agree but disagree. A right of way, by the definition the County used from the County Attorney, a right of way has to come through a certain section of the Code of Virginia. It has to be set apart from the original subdivision plat which means it had to have an acreage that the County took as a dedication. Well, that acreage is absent, the lines on the original subdivision plat are referred to as tie lines. They are not referred to as property lines. So, it is not an individual piece of property. So, nobody knows, he interpreted it as an easement. He saw that same piece of paper. There is a letter that Jeff Hodges wrote quoting the County Attorney and Alec Dillard many years ago to MR. and Mrs. Stokes and said you need to take your entrance off that side road. That letter still exists in the County files somewhere. He is not sure what the right answer is to that. He knows that when Mike Parker Sr. was living, he had conversations with him, he has had conversations with his sons they truly believe that they bought that easement as part of what they bought as the entire residue of Winebrenner's estate. The question before you tonight is the variance to the side yard. You have granted that variance before. HE sees no reason why they wouldn't grant it again. Everyone up there has used that same variance. It seems like precedents at this point. He would have no question. He sold his property and the people who bought it actually use it as a junkyard because it was a legal entity to own. They recognize value in it. Everybody's got their own flavors for things. It is all necessary. In a heavy industrial section what do you expect to go on. It isn't going to be the prettiest stuff in the world. It will be industrial if you stick it in the back and hide it as best you can, make a lot of money so that you can give a lot of taxes to the County.

Mr. Walters stated given the restrictions in the conditional use permit we aren't setting any precedents for junkyards. We are setting a precedent for this particular operation. Kind of like a parking lot for inoperable vehicles. The fact that he will not be parting cars out like a typical junkyard would be. This makes it a special case. The fact that we have it all written down in a conditional use permit, which really restricts his use of the property, helps us. The only problem is a junkyard is the category they can put this in as a use. The problem is the ordinance is not that flexible, but the conditional use is very specific, so we are not setting a precedent for all junkyards. What he is applying for is a specific use is kind of a parking lot for inoperable vehicles.

Mr. Haile stated he would call it a staging area.

Mr. Rose stated that the way to address the issue is to approve and incorporate resolution 23013 by reference.

Mr. Walters stated the only thing he would say. The setback instead of being a foot should be 5 feet because that seems to be the standard setback for accessory buildings. If you were putting in a parking lot, you wouldn't necessarily be right up against the property line. He would say he is going to have a fence within a foot but the setback instead of a foot the setback should be five feet.

Mr. Rose asked for structures.

Mr. Walters stated for the actual parking of cars?

Mr. Haile stated that Mr. Stokes made the point, but he was given a conditional use of a one-foot setback for the recycling center. So, he just wants the same thing. He doesn't know if we want to observe that as a consistent grant. The recycling center only has a one-foot setback.

Mr. Walter stated in the past that has been accessory uses it is typically like a foot.

Chairman Laffoon stated he was on the BZA when Mr. Stokes got the one foot, so he understands why he is asking for the same thing here. He will admit Mr. Stokes does keep that clean.

Mr. Haile said he is comfortable within one foot.

Mr. Rose stated he doesn't see the value added in going to 5 feet. He doesn't see a precedent thereat.

Mr. Rose made a motion to grant the request without stipulation of a setback but to incorporate resolution 23013.

Mr. Walters added the setback is a foot as requested.

Mr. Rose made a motion to grant the request for his variance with the inclusion of Resolution 23-013 from the County and a one-foot setback.

Mr. Haile seconded the motion. AYES: 4 NAYES: 0 ABSENT: 1

**New Business**

None

**Old Business**

None

**Miscellaneous**

None.

**Adjourn**

Chairman Laffoon adjourned the meeting.

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Steven Laffoon - Chairman